

NOTICE TO INTERESTED PARTIES

This solicitation is provided to you for information purposes only and **is not an official document**. If submitted as an offer, the State Procurement Office (SPO) will not accept it as a valid offer. It will be automatically rejected **and will not be considered for award**.

To obtain an official copy of the solicitation (evidenced by the procurement officer's signature), including any addenda to the document, interested party must contact the SPO, telephone (808) 586-0573; facsimile (808) 586-0570; or by e-mail at robert.zamarron@hawaii.gov. Please provide name of company, address, phone number, fax number, and name of contact person. Unless party provides the SPO with its Fedex (or equivalent) account number, the document will be sent by U.S. Postal Service first class mail.

STATE PROCUREMENT OFFICE

LEGAL AD DATE: December 12, 2003

REQUEST FOR PROPOSALS NO. RFP-04-025-O

SEALED PROPOSALS AND PRICING FOR INDEPENDENT INVESTIGATOR SERVICES FOR THE HAWAII STATE HOSPITAL DEPARTMENT OF HEALTH

WILL BE RECEIVED UP TO AND OPENED AT 2:00 P.M. (HST) ON

JANUARY 23, 2004

IN THE STATE PROCUREMENT OFFICE, KALANIMOKU BUILDING, 1151 PUNCHBOWL STREET, ROOM 416, HONOLULU, HAWAII 96813. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO SHARON KOGA, TELEPHONE 808/586-0562, FACSIMILE 808/586-0570 OR E-MAIL AT sharon.koga@hawaii.gov.

ROBERT J. GOVERNS, CPPB
Procurement Officer

RFP-04-025-O

Name of Company

TABLE OF CONTENTS

SECTION ONE

- ♦ **GENERAL INFORMATION / TIMETABLE**

SECTION TWO

- ♦ **BACKGROUND, SCOPE OF WORK, SPECIFICATIONS**

SECTION THREE

- ♦ **PROPOSAL FORMAT AND CONTENT**

SECTION FOUR

- ♦ **AWARD AND EVALUATION CRITERIA**

SECTION FIVE

- ♦ **SPECIAL PROVISIONS**

SECTION SIX

- ♦ **ATTACHMENTS**

Attachment A:	Offer Form
Attachment B:	Wage Certificate
Attachment C:	<u>Hawaii State Hospital Remedial Plan for Compliance</u>

SECTION ONE
INTRODUCTION AND SIGNIFICANT DATES

1.1 TERMS AND ACRONYMS USED HEREIN

Procurement Officer	=	The contracting officer for the State of Hawaii Procurement Office.
State	=	All agencies, including schools, participating in this agreement.
SPO	=	State Procurement Office of the State of Hawaii, located at 1151 Punchbowl Street, Room, 416, Honolulu, Hawaii 96813; P. O. Box 119, Honolulu, Hawaii 96810-0119.
Bidder or Offeror	=	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
HRS	=	Hawaii Revised Statutes
HAR	=	Hawaii Administrative Rules
GTC	=	General Terms and Conditions dated September 1, 1995 and issued by the SPO.
IFB	=	Invitation for Bids
RFP	=	Request for Proposals
GET	=	General Excise Tax
HSH	=	Hawaii State Hospital
DOH	=	Department of Health

1.2 INTRODUCTION

The purpose of this RFP is to solicit proposals from qualified registered independent investigators to provide investigative services to the HSH, DOH, for primarily findings of fact to allegations of patient/staff or staff/staff abuse.

1.3 TERM OF CONTRACT

The term of contract shall be for the twelve (12) month period commencing from the official commencement date on the Notice to Proceed with options to extend, by mutual agreement, for two (2) additional twelve-month periods.

1.4 RFP SCHEDULE - SIGNIFICANT DATES

The schedule set out herein represents the State's best estimate of the schedule that will be followed. If a component of this schedule, such as *Closing Date – proposal due date*, is delayed, the rest of the schedule will likely be shifted by the same number of days. The approximate schedule is as follows:

<u>Activity</u>	<u>Scheduled Date</u>
Advertisement of RFP	December 12, 2003
Pre-proposal Conference	December 19, 2003
Deadline for Written Inquiries	January 7, 2004
State Response to Written Inquiries	January 14, 2004

Offers Due
(Address on cover of RFP)

January 23, 2004
2:00 p.m. HST

Evaluation of Offers

Within 20 calendar
days from date of
Offers Due date

Best & Final Offers (if necessary)

February 18, 2004

Tentative Contract Start Date

March 1, 2004

1.5 OFFEROR'S QUESTIONS

Offerors are encouraged to submit written questions prior to the date specified in the RFP Schedule. Informal questions and questions over the telephone will not be accepted. Replies to offeror's questions will be recognized as official only if the offeror submits the questions in writing, is provided a written reply by the SPO, and such questions and answers are made a part of the RFP by addendum.

1.6. AUTHORITY

This RFP is issued under the provisions of Chapter 103D, HRS. All prospective offerors are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any prospective offeror shall constitute admission of such knowledge on the part of such prospective offeror.

SECTION TWO
BACKGROUND, SCOPE OF WORK, SPECIFICATIONS

I. SCOPE

The Contractor, with the approval of the Administrator of the HSH, shall provide the necessary investigation service hours in the form of needed full-time equivalent (FTE) qualified investigators with a background in mental health and skill in investigation and reporting techniques. Investigative services will primarily address allegations of patient/staff or staff/staff abuse, but may include background checks and allegations of illegal activities; i.e., theft, property damages, etc.

II. BACKGROUND/HISTORY

The HSH is the only public inpatient mental health facility in Hawaii. HSH is operated under the jurisdiction of the DOH. It provides acute psychiatric treatment and rehabilitation for community reintegration to seriously mentally ill patients, seriously mentally ill patients with substance abuse disorders, and forensic patients. HSH has 178 beds.

The Department of Justice (DOJ), through the HSH Remedial Plan for Compliance, requires HSH to contract with independent investigators or investigation firms for those services related to protecting the patients from harm. This is to cover the full spectrum of protection from harm including sexual battery, sexual harassment, abuse, neglect, exploitation, and other aspects of physical, psychological, sexual and financial abuse.

Services provided will assure the patients at the HSH are protected from harm to the extent possible with an independent investigation to determine the findings of fact. It will assure that those responsible for the neglect or abuse of the patients are held accountable, and assures a fair and independent investigation for the alleged perpetrators.

III. DETAILS/DESCRIPTION OF WORK TO BE PROVIDED

The Contractor, with the approval of the Administrator of the HSH, shall provide the necessary investigation service hours in the form of needed full-time equivalent (FTE) qualified investigators with a background in mental health and skill in investigation and reporting techniques or the firm must have expertise to provide oversight of the investigations to provide the needed expertise in mental health and skill in investigation and reporting techniques. The Contractor shall ensure that all of its personnel under this contract comply with the responsibilities and work assignments, conditions, and requirements as outlined in the Hawaii State HSH Remedial Plan for Compliance in the United States v. State of Hawaii Civil No. 91-000137 DAE-KSC and as described herein. Contractor shall obtain written approval from the Administrator of the HSH, prior to any changes in the responsibilities of the investigators assigned herein. The scope of work encompasses the following tasks and responsibilities:

A. Service Activities (Minimum and/or Mandatory Tasks and Responsibilities)

1. Provide investigative services at the HSH. Services to be provided at the HSH shall be supervised by the HSH's Chief of the Risk Management Unit in collaboration with the HSH Administrator or his designees;

2. Provide documentation to the HSH that it has not exceeded the authorized compensation amounts for recruitment of qualified staff without specific authority in writing by the HSH Administrator and that these costs will not be paid unless and until this requirement has been adequately documented and the HSH is invoiced;
3. Provide the staffing equivalents necessary to meet the criteria for compliance in the HSH Remedial Plan for Compliance United States v. State of Hawaii Civil No. 91-000137 DAE – KSC (Attachment C). The Contractor shall comply with the following through it's assigned investigators in accordance with the referenced Remedial Plan for Compliance:
 - a. Assure all allegations for investigation are prioritized through Chief of the Risk Management Unit or designee;
 - b. Conduct and complete the investigation in its entirety in not longer than seven (7) calendar days from referral;
 - c. Demeanor with patients and staff is important and intimidating or unprofessional conduct will not be tolerated;
 - d. Appointments for patient and staff interviews shall be scheduled in advance through Risk Management Unit at HSH;
 - e. Ensure that union representation is offered in accordance with collective bargaining agreements to the alleged perpetrator;
 - f. Assure the investigators assigned are available to testify at arbitrations, available for any kind of labor management situation, available to answer the questions of the Patient Protection Committee (PPC) at their meetings, and available to respond to subpoenas;
 - g. Point of contact to resolve any issues or correct problems is the Chief of the Risk Management Unit or designee and will be specifically named to Contractor by separate memorandum;
 - h. Produce an Investigation Report utilizing the HSH Event Number as the Case Number including finding and recommendations within ten (10) calendar days of receipt/referral of an allegation. The Investigation Report shall contain the following:
 - 1) Only patient initials, and not the patient name;
 - 2) Statement of the complaint;
 - 3) Focus of the investigation;
 - 4) Witness statements including Nursing Office statements;
 - 5) Statement of documents reviewed and relevant information obtained (i.e., patient chart, staff schedules, unit rules, policies and procedures, etc.) shall be included in the Investigation Report; and
 - 6) Summary of findings.

The Investigation Report submitted to the PPC shall be written in a clear and concise manner, and shall be either hand delivered to the Risk Management Unit Office or designee at the hospital or electronically delivered through a mutually agreed on process.

HSH investigative requests shall be referred to the Contractor's facilities via facsimile based on HSH Physician's recommendations.

- i. Develop a methodology to identify those patients who make multiple allegations that appear to be secondary to their psychiatric diagnosis;
 - j. Make referrals regarding methodology to the patient's identified treatment teams through the PPC or the HSH ADMIN;
 - k. Investigate serious allegations as determined by HSH ADMIN involving patient-to-patient incidents/events in the same manner in which staff neglect and abuse are investigated and reported.
- 4. Comply with applicable sections of the Federal statutes and regulations, HRS, and HAR, including but not limited to HIPAA.
 - 5. Final investigation reports will be received within 10 calendar days (or sooner) after the date of referral by the Nursing Supervisor for investigation and will contain justification and authorization to conclude within 10 calendar days (or later). All final reports are to be mailed or hand delivered to: **Hawaii State Hospital, Risk Management Unit, 45-710 Keaahala Road, Kaneohe, HI 96744.**

IV. CONTRACTOR'S AND CONTRACTOR'S STAFF QUALIFICATIONS/ REQUIREMENTS

Qualifications of each investigator will require verification by the Contractor either through letters of reference, copies of investigations completed to verify quality and content, or any other source that can be validated through an independent source mutually agreeable to Contractor and the State.

- A. Orientation will be provided by the HSH for those providing investigative services at the HSH. All assigned to HSH will be required to attend Orientation prior to being assigned.
- B. Copies of all required human resource documentations (i.e., position descriptions, competencies, personnel evaluations, etc.) will be provided to HSH Personnel Officer/Director of Human Resources.
- C. Investigators shall be licensed private investigators or have five (5) years experience conducting investigations in the State of Hawaii (STATE). The investigators shall be experienced in investigative and reporting techniques and in conducting investigations relating to psychiatry and its sub-specialties. The Contractor's staff shall be available to conduct interviews on a 24 hours a day and 7 days a week basis. Interviews will be conducted at times and places based on staff availability that will best allow the investigator to complete his/her investigation in seven (7) calendar days, and submit written report to the HSH in 10 calendar days. An office/ investigation interview space will be provided to the Contractor for use on HSH grounds.

- D. Assure the HSH's ability to meet its mission and provide for its patients' needs are directly related to Contractor's ability to provide qualified, competent staff. Qualified competent staff includes all staff provided to the HSH through this contract. The Contractor shall provide the following to the HSH's Personnel Office with the following documentation from its organization and realize that if none is provided, the HSH's forms will be used and completed by HSH staff:
1. A job description;
 2. Resume and verification of current license or registration/certification when applicable;
 3. Initial assessment of competency including any skill/competency lists or credentialing/privileging when and if appropriate;
 4. Most recent performance evaluation, including any skill/competency lists, and age-specific competencies when and if appropriate;
 5. Record of training/education in patient safety, psychiatry and its sub-specialties, and other relevant training;
- E. Assure that the requirements of Employee Health are appropriately documented by the Contractor and provided to the HSH before any investigators are allowed to report for duty. The Contractor shall assure those assigned comply with all Federal, State, and local laws and regulations, and Center for Disease Control (CDC) guidelines for healthcare facilities as follows:
1. Documentation shall be provided in accordance with HSH Policy and Procedure #14.013 Surveillance, Prevention and Infection Control for all staff assigned;
 2. The Contractor must provide Hepatitis B vaccine. It may be provided by the HSH if the Contractor is unable or unwilling to provide but the Contractor agrees to reimburse the HSH for the associated expenses in providing the vaccine;
 3. The Contractor must provide for post-exposure follow-up. It may be provided by the HSH if the Contractor is unable or unwilling to provide but the Contractor agrees to reimburse the HSH for the associated expenses in providing the post exposure follow-up;
 4. The Contractor must be able to provide immunization histories to the HSH within 5 working days when demanded. In the case of an outbreak or for safety reasons the Contractor must have available immunization histories within 24 hours. If this is not provided by the Contractor those assigned and fall into the affected category will not be permitted on the premises until the information is provided. Expenses and cost for replacement services as a result of this scenario will be paid by the Contractor to the HSH;
 5. Hawaii Administrative Rule 14-9-2 is applicable to all persons assigned through this contract.
- F. Criminal background checks will be conducted on all personnel assigned to the HSH by the Contractor and results forwarded to the ADMIN HSH prior to the investigator being assigned to the HSH. The results provided will be held in strict confidence and treated as protected personnel data and used to determine the ability of the HSH to accept or not accept the assigned investigator. It will further serve to protect the patients from potential harm due a criminal history going

undiscovered. The costs of the criminal background check shall be the responsibility of the HSH unless otherwise negotiated which will require a letter signed and agreed to by the Contractor and the ADMIN HSH to indicate the responsibility shift;

- G. Contractor must have a communication system (FAX) available for receipt of referrals on a twenty-four (24) hour a day and seven (7) day a week basis and have staff support that possess computer skills sufficient to produce Investigation Reports in a clear and concise manner;

V. AGENCY'S RESPONSIBILITIES

The HSH will provide an initial orientation to the hospital including a session with the PPC to educate on how the investigation reports generated by the Contractor will be used. Copies of the HSH Remedial Plan for compliance will be available at the orientation, at which time questions can be asked regarding this court order. The Contractor will be compensated at the agreed hourly rate when attending orientation and training session required by the Contractor/HSH.

SECTION 3

PROPOSAL FORMAT AND CONTENT

3.1 INTRODUCTION

One of the objectives of this RFP is to make proposal preparation easy and efficient, while giving offerors ample opportunity to highlight their proposal. The evaluation process must also be manageable and effective. When an offeror submits a proposal, it shall be a complete plan for accomplishing the tasks described in this RFP and any additional tasks the offeror has identified as necessary to successfully provide the services required.

The offeror shall prepare a written proposal, in a narrative format, that will fully describe the services and compensation schedule the offeror proposes in response to this RFP. The proposal shall be organized into sections with tabs separating each section listed below. Offeror shall include, without limitation, all of the information requested in this RFP in the order specified.

- Transmittal Letter
- Background and Experience
- Personnel: Project Organization and Staffing
- Management and Control
- Pricing Schedule or Formula for Determining Fees
- References
- Exceptions

3.2 TRANSMITTAL LETTER

The transmittal letter must be included as part of the offeror's technical proposal. The transmittal letter must be on the offeror's official business letterhead and must be signed by an individual or individuals authorized to legally bind the offeror and be affixed with the corporate seal, if any.

The Transmittal Letter shall include the following:

3.2.1 RFP Title and Number

3.2.2 Terms and Conditions

A statement that the offeror understands and will comply with all terms and conditions in the RFP.

3.2.3 Prime Contractor

A statement that the offeror maintains a current and active independent investigator's license issued by the Department of Commerce and Consumer Affairs (DCCA). A copy of the license must be provided. Offeror shall also provide a statement that if awarded the contract, it will not subcontract or assign any work described in its proposal without prior written approval of the State.

3.2.4 Contact Person

Include the name and telephone number of the person who shall be contacted during the evaluation process to discuss the offeror's proposal.

3.3 BACKGROUND AND EXPERIENCE

The Background and Experience subsection shall include details on the background of the Offeror, its size and resources, financial statements, explicit details of Offeror's experience relevant to the scope of work, specifications, terms and conditions specified herein. If relevant, proposal should include a list of recent clients and/or cases.

The Background and Experience subsection shall address each item as follows:

3.3.1 Background

A separate section must be completed in the proposal for the offeror. Background information on the offeror and its size and resources shall cover the following:

- Name of offeror
- Physical address
- Mailing address (if different from above)
- Date established
- Ownership (public or private company, partnership, subsidiary, etc.)
- Offeror's primary line of business

3.3.2 Financial Stability and Financial Commitment

The offeror shall provide information on the offeror's financial stability, including the following: annual revenue over the last five years, number of employees for each of the last five (5) years, years in business, evidence of business insurance for professional liability, and financial references (which may include audited financial statements, compiled financial statements, and references from banking relationships).

For verification of financial stability, offeror may be asked to submit its audited financial statements and annual reports, if any, for the last two years.

3.3.3 Performance

The offeror shall provide information that will demonstrate the following:

- Responsiveness to previous clients
- Timeliness of meeting schedules
- Adherence to contract requirements of previous clients
- Availability and accessibility to previous clients

3.3.4 Experience

The details of offeror's experience relevant to the kind of investigative work specified shall be detailed and include a listing experience obtained by senior management employees or officers, who will be primarily assigned to perform or oversee the work specified.

3.4 PERSONNEL: PROJECT ORGANIZATION AND STAFFING

The project organization and staffing subsection shall include organization charts of proposed personnel and their job titles and responsibilities.

Resumes of all key personnel to be assigned to this project must be included in a proposal appendix, and should include information relating to each person's experience, education, and skills (including, but not limited to, specific degrees, dates, names of employers, and educational institutions), and at least three recent references.

The HSH shall be notified of the addition or deletion of any key personnel assigned to this project. The Contract Administrator shall approve any addition or replacement of key personnel.

3.5 MANAGEMENT AND CONTROL

The Management and Control section shall include details of the method to be used in managing the project and controlling project activities, including details about the offeror's approach to interface with the State and the offeror's approach to ensuring quality and timeliness of activities and completion of tasks, and fulfillment of responsibilities, while ensuring security and confidentiality as necessary and documentation to fulfill requirements of the HSH.

This section shall also include a discussion of any conflict of interest the offeror may have in providing the services described in its proposal and any problems or concerns that the offeror wishes to bring to the HSH's attention. OFFERORS SHOULD NOTE THAT CONFLICTS OF INTEREST MAY BE GROUNDS FOR DISQUALIFICATION FROM CONSIDERATION.

3.6 PRICING SCHEDULE OR FORMULA FOR DETERMINING FEES

Offeror shall provide a concise and detailed pricing schedule or formula for determining fees to provide the investigative services required.

3.7 REFERENCES

Provide local references, including the name and address of the company or agency, and a person to contact at the company or agency. Other references, such as companies or agencies on the mainland, that offeror believes are pertinent may also be included. References from governmental entities for which you do now, or have ever performed investigative services are of particular interest to the HSH.

3.8 EXCEPTIONS

Offeror shall list any exceptions taken to the terms, conditions, specifications, or other requirements listed herein. Offeror shall reference the RFP section where exception is taken, a description of the exception taken, and the proposed alternative, if any.

3.9 RIGHT TO WAIVE MINOR IRREGULARITIES

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive non-statutory mandatory requirements provided all otherwise responsive proposals failed to meet the mandatory requirements and the failure to do so does not materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

SECTION FOUR

EVALUATION CRITERIA

4.1 INTRODUCTION

The evaluation of proposals received in response to this RFP will be conducted comprehensively, fairly, and impartially. Structural, quantitative scoring techniques will be utilized to maximize the objectivity of the evaluation.

4.2 EVALUATION ORGANIZATION

An evaluation committee of designated reviewers selected by the Procurement Officer shall review and evaluate all proposals. The committee is comprised of individuals with experience in and knowledge of patients and staff working in a hospital environment.

<u>POINTS</u>	<u>CRITERIA</u>
10	Background and Summary: <ul style="list-style-type: none">• The offeror has demonstrated a thorough understanding of the purpose and scope of the service activity.• The goals and objectives are in alignment with the proposed service activity.• The offeror has described how the proposed service is designed to meet the pertinent issues and problems related to the service activity.
50	Experience and Capability: <ul style="list-style-type: none">• Demonstrated skills, abilities, knowledge of, and experience relating to the delivery of the proposed services.• Sufficiency of quality assurance and evaluation plans for the proposed services, including methodology.
10	Personnel -Project Organization and Staffing: <ul style="list-style-type: none">• That the proposed staffing is reasonable to insure viability of the services• Minimum qualifications (including experience) for staff assigned to the program.• Demonstrated ability to supervise, train and provide administrative direction to staff relative to the delivery of the proposed services.

- 20 Service Delivery:
- Evaluation criteria for this section will assess the applicant's approach to the service activities and management requirements outlined in the proposal.
 - The evaluation criteria may also include an assessment of the logic of the work plan for the major service activities and tasks to be completed, including clarity in work assignments and responsibilities, including timelines of investigations and providing reports.
 - The Contractor must be accessible 24 hours a day, seven (7) days a week to respond to referrals for investigative services.
- 10 Financial:
- Proposed flat rate.
 - Costs are reasonable and competitive.
 - Non-personnel costs are reasonable and adequately justified.
 - The extent the budget supports the scope of service and requirements of the RFP.
 - Adequacy of accounting system

100

**HAWAII STATE HOSPITAL
INDIVIDUAL SCORING FORM
REQUEST FOR PROPOSALS**

Offeror: _____
RFP Number: RFP-04-025-O
RFP Title: Independent Investigator Services for the Hawaii State Hospital
Date: _____
Evaluated By: _____
Position Title: _____

Evaluation Criteria

- A. Background and Summary (10 points available) SCORE: _____
(Total A.1 – A.3)
1. List how the applicant has demonstrated a thorough understanding of the investigative process involving patient abuse and neglect allegations. (Maximum of 3 points)
Comments: Points: _____
2. Indicate how the goals and objectives are in alignment with the proposed service activity. (Maximum of 3 points)
Comments: Points: _____
3. How does the proposed investigation service through its design meet the pertinent issues and problems related to the Hawaii State Hospital? (Maximum of 4 points)
Comments: Points: _____

B. Experience and Capability (50 points available)

SCORE: _____
(Total B.1 – B.4)

1. What are the demonstrated skills relating to delivering investigative services? (Maximum of 10 points)
Comments:

Points: _____

2. What abilities and/or knowledge of investigative services? (Maximum of 10 points)
Comments:

Points: _____

3. What experience does this offeror have that makes it qualified to conduct psychiatric patient abuse and neglect investigations in a psychiatric in-patient setting? (Maximum of 25 points)
Comments:

Points: _____

4. Does the offeror include quality assurance, quality improvement and evaluation plans, including methodology? (Maximum of 5 points)
Comments:

Points: _____

C. Personnel: Project Organization and Staffing (10 points available)

SCORE: _____
(Total C.1 – C.3)

1. How will the offeror ensure investigations are completed as required in time frames set forth in the RFP (Organization Chart, Schedule, etc.)? (Maximum of 3 points)
Comments:

Points: _____

2. Minimum Qualifications (including experience) for staff assigned as investigators to the hospital or who might be assigned are adequate? (Maximum of 3 points) Points: _____
Comments:

3. How has the offeror demonstrated ability to supervise, train and provide administrative direction to assigned staff relative to providing investigative services? (Maximum of 4 points) Points: _____
Comments:

D. Service Delivery (20 points available) SCORE: _____
(Total D.1 – D.3)

1. Is the offeror capable of meeting the POS Proposal Application as it relates to investigative services and management requirements? (Maximum of 5 points) Points: _____
Comments:

2. Able to accomplish major service activities and tasks including work assignments and responsibilities, and timeliness of investigations and reports? (Maximum of 10 points) Points: _____
Comments:

3. Accessible 24 hours a day, seven (7) days a week to respond to the investigation referrals? (Maximum of 5 points) Points: _____
Comments:

E. Financial (10 points available)

SCORE: _____
(Total E.1 – E.2)

1. Proposed flat rate and costs are reasonable and competitive by ranking from most desirable to least desirable.
(Maximum of 7 points)
Comments:

Points: _____

2. The extent the budget supports the scope of service and requirements of the RFP; adequacy of accounting system.
(Maximum of 3 points)
Comments:

Points: _____

TOTAL SCORE (A – E): _____
(Maximum = 100 Points)

_____ Recommended for Award

_____ Not Recommended for Award

Comments:

**HAWAII STATE HOSPITAL
REQUEST FOR PROPOSAL (RFP) No. _____**

SUMMARY RATING FORM

Applicant: _____

Date: _____

A. Background and Summary (10 points)

SCORE: _____

Comments:

B. Experience and Capability (50 points)

SCORE: _____

Comments:

C. Personnel: Project Organization and Staffing (10 points)

SCORE: _____

Comments:

D. Service Delivery (20 points)

SCORE: _____

Comments:

E. Financial (10 points)

SCORE: _____

Comments:

TOTAL SCORE (A – E): _____

_____ Recommended for Award

_____ Not Recommended for Award

Comments:

SECTION FIVE SPECIAL PROVISIONS

5.1 SCOPE

The offer to provide independent investigator services for the HSH, DOH, shall be in accordance with these Special Provisions, the Scope of Work specified herein, and the GTC, included by reference and available at the SPO, the Department of Accounting and General Services District Offices on Hawaii, Maui and Kauai, and on the SPO website: <http://www2.state.hi.us/bidfiles/spogtgs.pdf>.

5.2 OFFEROR QUALIFICATIONS

Offeror shall meet the following qualifications requirements. If Offeror fails to meet any qualification requirement, the State shall not consider Offeror's proposal for award.

- a. Offeror shall be a licensed independent investigator registered with the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii.
- b. Offeror shall have and shall maintain a regular active business office in the State of Hawaii for the purpose of conducting independent investigations. The business shall be open to the public during stated reasonable business hours throughout the term of the contract. Offeror shall designate a primary person to contact who shall assume responsibility for the direct management and control of the daily operation of the office.
- c. Offeror shall have been in business as an independent investigator for minimum five (5) years.

Documentation to verify any of the above qualifications shall be submitted within two (2) business days from the State's request. Failure to do so shall be sufficient cause for rejection of Offeror's proposal.

5.3 RESPONSIBILITY OF OFFERORS

Offeror is advised that if awarded a contract under this solicitation, Offeror shall, upon award of the contract, furnish proof of compliance with the requirements of §3-122-112, HAR:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. One of the following:
 - a. Be registered and incorporated or organized under the laws of the State (hereinafter referred to as a "Hawaii business"); **or**
 - b. Be registered to do business in the State. (hereinafter referred to as a "compliant non-Hawaii business").

Refer to the Award of Contract provision herein for instructions on furnishing the documents that are acceptable to the State as proof of compliance with the above-mentioned requirements.

5.3 TERM OF CONTRACT

Successful Offeror shall be required to enter into a formal written contract to commence work on this project.

The term of contract shall be for the twelve (12) month period commencing from the official commencement date on the Notice to Proceed. The contract may be extended for two (2) additional twelve-month periods or any part thereof if mutually agreed upon in writing prior to contract expiration. The Contractor or State may terminate the extended contract period at any time upon 120 calendar days prior written notice.

5.4 CONTRACT ADMINISTRATOR

For purposes of this contract, Mr. Paul Guggenheim, Administrator, HSH, or his authorized representative is designated the Contract Administrator. He may be reached at 808/236-8237.

5.5 SUBMISSION OF PROPOSAL

Each Offeror may submit only one (1) proposal. Alternate proposal(s) will not be accepted.

Submission of a proposal shall constitute an incontrovertible representation by the Offeror of compliance with every requirement of this RFP, and that the RFP documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work. Before submitting a proposal, each Offeror shall:

- a. Examine the solicitation documents thoroughly. Solicitation documents include this RFP, any attachments and any other relevant documentation.
- b. Become familiar with State, local, and federal laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work specified herein.

Offers shall be received at the SPO, 1151 Punchbowl Street, Kalanimoku Building, Room 416, Honolulu, Hawaii 96813, no later than the date and time stated on the cover page of the RFP. Timely receipt of offers shall be evidenced by the date and time registered by the SPO time stamp clock. Offers received after the deadline shall be returned unopened.

If the Offeror chooses to deliver its offer by United States Postal Service (USPS), please be aware that the USPS does not deliver directly to Room 416. This may cause a delay in receipt by the SPO and the offer may reach the SPO after the deadline, resulting in automatic rejection.

5.6 PROPOSAL PREPARATION

- a. **OFFER FORM, page OF-1.** See Attachment A. Proposals shall be submitted using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable. Offeror shall indicate its exact legal name in the appropriate spaces on Offer Form page OF-1. Failure to do so may delay proper execution of the contract.

Offeror's authorized signature shall be an original signature in ink. If Offer Form, page OF-1, is unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

Hawaii business. A business entity referred to as a "Hawaii business", is registered and incorporated or organized under the laws of the State of Hawaii.

Compliant non-Hawaii business. A business entity referred to as a "compliant non-Hawaii business," is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State.

- b. **Offer Guaranty.** An offer guaranty is NOT required for this RFP.
- c. **Tax Liability.** Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and vendors are advised that they are liable for the Hawaii GET at the current 4% rate. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.
- d. **Original Proposal and Copies to be Submitted.** Offeror shall submit one (1) original proposal marked "ORIGINAL" and six (6) copies of the original marked "COPY". It is imperative to note that the Offeror submit only one original and the required number of copies. DO NOT SUBMIT MORE THAN ONE ORIGINAL.

Offeror is encouraged to submit typewritten offers. If handwritten, it should be clearly printed. Offeror is cautioned that illegible offers of any item(s) may be automatically rejected to avoid any errors in interpretation by the reviewers during the evaluation process.

- e. Copies of documents transmitted by Offerors via facsimile machines shall be limited to modifications or withdrawal of an offer pursuant to Sections 3-122-108 and 3-122-28, HAR, respectively.
- f. **Wage Certificate.** Refer to Section 2.8 of the GTC. Contractor shall complete and submit the attached Wage Certificate by which Contractor certifies that the services required will be performed pursuant to Section 103-55, HRS. See Attachment B of *Section Six* for the Wage Certificate form.

At the time of this solicitation, there are no public employee positions listed in the classification plan of the public sector that are similar, however, Offeror must sign the Wage Certificate to show compliance with Section No. 1 of the certificate.

5.7 PRE-PROPOSAL CONFERENCE AND WRITTEN INQUIRIES

A pre-proposal conference for this solicitation shall be held on:

Date: December 19, 2003
Time: 9:00 AM – 10:00 AM
Location: Kalanimoku Bldg., 1151 Punchbowl St., Rm. 416; Honolulu, HI

Although attendance is not mandatory, interested offerors are advised to attend this conference to discuss any questions or concerns they may have regarding the subject solicitation.

All questions must be submitted in writing and directed to the SPO. **Deadline for written inquiries is January 7, 2004.** Written inquiries may be sent by facsimile to (808) 586-0570, Attention: Sharon Koga; or e-mailed to: sharon.koga@hawaii.gov. The State will respond to written questions by the date indicated in *Section One*, or as amended.

5.8 COST OF RFP

The Offeror shall be responsible for all costs incurred in preparing or responding to this RFP. The State of Hawaii will not reimburse such costs. All materials and documents submitted in response to this RFP become the property of the State and will not be returned.

5.9 ECONOMY OF PRESENTATION

Proposals shall be prepared in a straightforward and concise manner, in a format that is reasonably consistent and appropriate to the purpose. Emphasis shall be on completeness and clarity of content. If any additional information is required by the State regarding any aspect of the Offeror's proposal, it shall be provided within two (2) business days.

5.10 REQUIRED REVIEW

Offeror shall carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter must be **made in writing and should be received by the SPO prior to the Proposals Due date.** This will allow issuance of any necessary amendments to the RFP. It will also help prevent the opening of a defective solicitation and exposure of Offeror's proposal upon which award could not be made.

5.11 CONFIDENTIAL INFORMATION

If a person believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld as confidential, then the Procurement Officer named on the cover of this RFP should be so advised in writing and provided with justification to support confidentiality claim. Compensation methodology is not considered confidential and will not be withheld.

An Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

Pursuant to Section 3-122-58, HAR, the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with Chapter 92F, HRS. If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with Section 92F-42(12), HRS.

5.12 CANCELLATION OF RFP AND PROPOSAL REJECTION

The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, pursuant to Section 3-122-95, HAR.

The State shall not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by the Offeror in the event this RFP is cancelled or a proposal is rejected.

5.14 PROPOSAL OPENING

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and Offerors' proposals shall be open to public inspection upon posting of award pursuant to Section 103D-701, HRS.

5.15 EVALUATION OF PROPOSALS

The evaluation committee of at least three (3) State employees selected by the Procurement Officer shall evaluate proposals. The evaluation will be based solely on the evaluation criteria set out in Section Four, *Proposal Evaluation*, of this RFP.

Proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable. Discussions may be conducted with priority listed Offerors who submit proposals determined to be acceptable or potentially acceptable of being selected for award, but proposals may be accepted without such discussions.

If, during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or change. Addenda to the RFP shall be distributed only to priority-listed Offerors who submit acceptable or potentially acceptable proposals. These Offerors shall be permitted to submit new proposals or to amend those submitted.

The date and time for Offerors to submit their best and final offers, if necessary, is indicated in Section One. If Offeror does not submit a notice of withdrawal or another best and final offer, the Offeror's immediate previous offer will be construed as their best and final offer.

5.16 OFFER ACCEPTANCE PERIOD

The State's acceptance of offer, if any, will be made within sixty (60) calendar days after the opening of proposals. Offeror's proposal shall remain firm for the sixty (60) day period as provided in Section 3.2 of the GTC.

5.17 AWARD OF CONTRACT

Method of Award. Award, if made, shall be to the responsible Offeror whose proposal is determined to be the most advantageous to the State taking into consideration the evaluation factors set forth in this RFP.

HRS Chapter 237 tax clearance requirement for award and final payment.

Instructions are as follows:

Pursuant to §103D-328, HRS, the Offeror whose proposal is determined to be the most advantageous to the State shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate is valid for six (6) months from the most recent approval stamp date on the certificate and must be valid on the date it is received by the purchasing agency.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX *TAX CLEARANCE APPLICATION* Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): <http://www.state.hi.us/tax/alphalist.html#a>
DOTAX Forms by Fax/Mail: (808) 587-7572
1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX:	(808) 587-1488
IRS:	(808) 539-1573

The application for the clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to the purchasing agency.

Contractor is required to submit a tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.

Instructions are as follows:

Pursuant to §103D-310(c), HRS, the Offeror whose proposal is determined to be the most advantageous to the State shall be required to submit an approved certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by the purchasing agency.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR*, Form LIR#27 which is available at www.dlir.state.hi.us/LIR#27, or at the neighbor island DLIR District Offices. The DLIR will return the form to the Offeror who in turn shall submit it to the purchasing agency.

The application for the certificate is the responsibility of the Offeror, and must be submitted directly to the DLIR and not to the purchasing agency.

Compliance with Section 103D-310(c)(1) and (2), HRS. Pursuant to section 3-122-112, HAR, the Offeror whose proposal is determined to be the most advantageous to the State shall be required to submit a *CERTIFICATE OF GOOD STANDING* (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received by the purchasing agency.

To obtain the Certificate, the Offeror must first be registered with the BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

On-line business registration and the Certificate are available at www.BusinessRegistrations.com. To register or to obtain the Certificate by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

Timely Submission of all Certificates. The above certificates should be applied for and submitted to the purchasing agency as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer regardless if determined most advantageous to the State may not receive the award.

Final Payment Requirements. In addition to a tax clearance certificate an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the Form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Chapter 103D, HRS, pop-up menu.

5.18 CONTRACT EXECUTION AND TERM OF CONTRACT

Successful Offeror receiving award shall be required to enter into a formal written contract. No performance or payment bond is required for this contract. Upon execution of the contract, a Notice to Proceed will be issued.

No work is to be undertaken by the Contractor prior to the official commencement date specified in the Notice to Proceed. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date.

If the State, solely at its option wishes to extend the term of this contract for an additional twelve-month period or portion thereof and the contractor mutually agrees, the Contractor shall be required to execute a supplement to the contract for the additional extension period.

5.19 PROPOSAL AS A PART OF THE CONTRACT

Part or all of this RFP and the successful proposal may be incorporated into the contract.

5.20 ADDITIONAL TERMS AND CONDITIONS

The State reserves the right to add terms and conditions prior to award of contract. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

5.21 INSURANCE REQUIREMENT

Upon Contractor's execution of the contract or earlier, the Contractor agrees to deposit with the State of Hawaii certificate(s) of insurance necessary to satisfy the State that the following insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the State, Contractor shall be responsible for furnishing a copy of the policy or policies.

The Contractor shall maintain in full force and effect during the life of this contract liability and property damage insurance to protect the Contractor and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by an subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, Contractor may require subcontractor to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s) where appropriate.

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability (CGL) (occurrence form)	\$1,000,000 combined single limit per occurrence for personal injury, bodily injury, and property damage
Automobile Liability	Basic automobile coverage as required by State statute.

Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clauses:

1. "This insurance shall not be canceled, limited in scope of coverage or non-renewed until after 30 days written notice has been given to the State of Hawaii, Department of Accounting and General Services, State Procurement Office, P. O. Box 119, Honolulu, Hawaii 96810-0119."

2. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
3. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the State to exercise any or all of the remedies provided in this contract for a default of the Contractor.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

5.22 PROFESSIONAL LIABILITY

In addition to the coverages specified in Section 5.22, Contractor shall also have and maintain Professional Liability coverage in the amount of \$2,000,000. The State of Hawaii shall be added as an additional insured on this policy.

5.23 CONTRACT PAYMENTS

Invoices for the investigative services rendered shall be submitted in triplicate to:

Hawaii State Hospital
Administrative and Support Services Office
45-710 Keaahala Road
Kaneohe, HI 96744-3528

A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract. In addition to the tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Chapter 103D, HRS, pop-up menu.

The payment schedule for independent investigator services will be in accordance with Offeror's proposal in so far as it is possible to do so. However, Section 103-10, HRS, provides that the State shall have thirty (30) calendar days after receipt of invoice or performance of service to make payment. For this reason, the State may reject any offer submitted with a condition requiring payment within a shorter period.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the Contract, which requires payment within a shorter period or interest payments not in conformance with statute.

5.24 SUBCONTRACTING

No work or services shall be subcontracted or assigned without the prior written approval of the Procurement Officer. No subcontract shall under any circumstances relieve the Contractor of its obligations and liability under this contract with the State. All persons engaged in performing the work covered by the contract shall be considered employees of the Contractor.

5.25 CONTRACT MODIFICATION

The contract may be modified only by written document signed by the Procurement Officer and Contractor personnel authorized to sign contracts on behalf of the Contractor.

5.26 CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

5.27 INSPECTION & MODIFICATIONS — REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES

The Contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the Contract Administrator. The State may employ all reasonable means to insure that the work is being performed in compliance with the contract.

Should the Contract Administrator determine that corrections or modifications are necessary in order to accomplish its intent, the Contract Administrator may direct the Contractor to make such changes.

Substantial failure of the Contractor to perform the contract may cause the State to terminate the contract. In this event, the State may require the Contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

5.28 PROTEST

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award letter, if any, resulting from this solicitation shall be posted on the bulletin board between room 416 and room 420, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Procurement Officer, SPO, 1151 Punchbowl Street, Room 416, Honolulu, Hawaii 96813 or P.O. Box 119, Honolulu, Hawaii 96810-0119.

5.28 ADDITIONS, AMENDMENTS AND CLARIFICATIONS TO THE GTC

Additions to the GTC:

Approvals. Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

Cancellation of Solicitations and Rejection of Offers. The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in §§3-122-95 through 3-122-97, HAR.

Confidentiality of Material. All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, chapter 92F, HRS. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to §3-122-58, HAR, in the case of an RFP, or §3-122-30, HAR, in the case of an IFB. The Offeror shall state in its written communication to the Procurement Officer, the reason(s) for designating the material as confidential, for example, trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of opening regardless of any designation to the contrary.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Office of the Attorney General in accordance with chapter 92F, HRS. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror protests under chapter 3-126, HAR. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with §92F-15.5, HRS.

Nondiscrimination. No person performing work under this Agreement, including any subcontractor, employee, or agency of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

Records Retention. The Contractor and any subcontractors shall maintain the books and records that relate to the Agreement and any cost or pricing data for three (3) years from the date of final payment under the Agreement.

Correctional Industries. Goods and services available through Correctional Industries (CI) programs may be the same or similar to those awarded by competitive sealed bids or proposals. Agencies participating in SPO requirements (price list) contracts may also procure directly from CI and shall not be considered in violation of the terms and conditions of any SPO contract.

Year 2000 Compliance. All appropriate hardware, software, and systems utilized for the work specified herein shall be year 2000 compliant.

Amendments to the GTC:

Subsection 2.1 Competency of Offeror. Paragraph one is rescinded and replaced with the following:

"Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive."

Subsection 2.5 Preparation of Offer. Paragraph four is rescinded and replaced with the following:

"An Offeror may submit only one offer in response to a solicitation. If an Offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an Offeror may submit only one offer for each line item (if any) of a solicitation. If an Offeror submits more than one offer per line item, then all offers for that line item shall be rejected."

Subsection 3.1(B) Preference for Hawaii Products. GTC §3.1(B), paragraphs one and two only are rescinded and replaced with the following: "A purchasing agency shall review all specifications in a bid or proposal for purchase from the Hawaii products (HP) list where these products are available; provided that the products: Meet the minimum specifications and the selling price f.o.b. jobsite; unloaded, including applicable general excise tax and use tax, does not exceed the lowest delivered price in Hawaii f.o.b. jobsite; and unloaded, including applicable general excise tax and use tax, does not exceed the lowest delivered price of a similar non-HP by more than: three per cent where class I HP are involved; five per cent where class II HP are involved; or ten per cent where class III HP are involved."

All persons submitting bids or proposals to claim HP preference shall designate in their bids which individual product and its price is to be supplied as a HP.

Where a bid or proposal contains both Hawaii and non-HP, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a HP item shall be decreased by subtracting therefrom: three per cent, five per cent, or ten per cent for the class I, class II, or class III HP items bid or offered, respectively. The lowest total bid or proposal, taking the preference into consideration, shall be awarded the contract unless the bid or offer provides for additional award criteria. The contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of the preferences."

Subsection 3.1© Printing Preference. GTC §3.1©, paragraphs one and two are rescinded and replaced with the following: "All bids or proposals submitted for a printing, binding, or stationery contract in which all work will be performed in-state, including all preparatory work, presswork, bindery work, and any other production-related work shall receive a fifteen per cent preference for purposes of bid or proposal evaluation."

Where bids or proposals are for work performed in-state and out-of-state, then for the purpose of selecting the lowest bid or evaluating proposals submitted only, the amount bid or proposed for work performed out-of-state shall be increased by fifteen per cent. The lowest total offer, taking the preference into consideration, shall be awarded the contract unless the solicitation provides for additional award criteria. The contract amount awarded, however, shall be the amount of the price offered, exclusive of the preference.

Clarifications to the GTC:

Subsection 2.8 Certification of Offeror Concerning Wages, Hours and Working Conditions of Employees Supplying Services. Section 103-55, HRS, amended by Act 149, SLH 1999, now applies to service contracts in excess of \$25,000 and also excludes professional personnel.

GTCs Not Applicable. Subsections 2.11 and 2.14 of the GTC that apply specifically to the RFP method of source selection are not applicable to IFBs. Also subsections 2.10 and 2.13 that apply specifically to the IFB method of source selection are not applicable to RFPs.

SECTION SIX

ATTACHMENTS

Attachment A.	Offer Form.
Attachment B.	Wage Certificate.
Attachment C.	<u>Hawaii State Hospital Remedial Plan for Compliance</u>

INDEPENDENT INVESTIGATOR SERVICES
FOR THE HAWAII STATE HOSPITAL, DOH
RFP-04-025-O

Procurement Officer
State Procurement Office
State of Hawaii
Honolulu, Hawaii 96813

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto, and in the General Terms and Conditions, dated September 1, 1995, by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

The undersigned represents: **(Check ☒ one only)**

- ☐ A **Hawaii business** incorporated or organized under the laws of the State of Hawaii;
OR
☐ A **Compliant Non-Hawaii business** not incorporated or organized under the laws of the State of Hawaii, but registered at the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawaii.

State of incorporation: _____

Offeror is:

- ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ Joint Venture
☐ Other _____

Federal I.D. No.: _____

Hawaii General Excise Tax License I.D. No.: _____

Payment address (other than street address below): _____

City, State, Zip Code: _____

Business address (street address): _____

City, State, Zip Code: _____

Respectfully submitted:

Date: _____

(x) _____

Authorized (Original) Signature

Telephone No.: _____

Fax No.: _____

Name and Title (Please Type or Print)

E-mail Address: _____

* _____
Exact Legal Name of Company (Offeror)

*If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:

Hawaii State Hospital **Remedial Plan for Compliance**

United States v. State of Hawaii
Civil No. 91-000137 DAE – KSC

January 2002

Hawaii State Hospital
Remedial Plan for Compliance

United States v. State of Hawaii
Civil No. 91-00137 DAE - KSC

Table of Contents

Introduction	1
I. Organizational Structure and Leadership	1
II. Continuity of Care and Treatment	8
III. Staffing	23
IV. Protection from Harm	28
V. Medication Practices	39
VI. Medical Practices	41
VII. Performance Improvement	43
VIII. Management Information System	45
IX. Physical Plant and Safety	45

Necessary Tasks

It shall be the role of leadership to envision, advocate and operationalize a philosophy of care and treatment that ensures services are integrated, understandable, and meaningful for patients and staff.

To further meet the requirements of the Court's Stipulations and Orders:

1. The State shall:

- i. Employ an AMHD Medical Director with the authority and responsibility to oversee the quality and continuity of clinical services throughout the AMHD funded system of care and treatment. **(Timeframe: immediate.)**
 - a. The following shall report to the AMHD Medical Director: **(Timeframe: six months.)**
 1. AMHD Forensic Director;
 2. AMHD Utilization Manager;
 3. AMHD Director of Research and Evaluation; and
 4. AMHD Quality Assurance/Improvement Manager.
- ii. Specifically define the populations that it serves at HSH and in the community. **(Timeframe: immediate.)**
- iii. Ensure HSH is a full service state psychiatric hospital that has the capacity to meet the needs of individuals who require hospital level of care, including patients who require:
 - a. Acute treatment;
 - b. Intermediate treatment;
 - c. Extended treatment;
 - d. Forensic; and
 - e. Civil.**(Timeframe: immediate.)**
- iv. Delegate authority for and oversight of operational functions to HSH for the delivery of services, including:
 - a. Treatment;
 - b. Discharge decisions;
 - c. Deployment of staff;
 - d. Allocation of resources;
 - e. Annual strategic planning; and
 - f. Annual review of policies and procedures at HSH.**(Timeframe: immediate.)**
- v. Establish an advisory body, including consumer, family and community representation, to the HSH governing body to review and make recommendations for the entire hospital operation. **(Timeframe: six months.)**

- vi. Ensure competent and stable leadership at the hospital by delegating authority and responsibility to empower hospital-based leadership to perform their functions. **(Timeframe: immediate.)**
- vii. Integrate the hospital with the community system to ensure a seamless system of care and treatment for the benefit of patients who are the responsibility of AMHD. **(Timeframe: two years.)**
- viii. Ensure that clinical needs drive decision-making and resource allocation through a system of hospital and community clinical-medical leadership. **(Timeframe: immediate.)**
- ix. Integrate performance improvement findings with hospital operations for day-to-day decision-making as well as more long-term strategic planning operations. **(Timeframe: one month.)**
- x. Implement a Utilization Management system based on national level of care criteria to inform HSH admission and discharge decisions. The aggregate information concerning the level of care for those persons proposed for HSH admission shall be used by the State to assist it in planning for the number of psychiatric beds at HSH. **(Timeframe: one year.)**
- xi. Establish a position and hire a Forensic Director at the Division level: **(Timeframe: one year.)**
 - a. This position shall report to the AMHD Medical Director.
 - b. The Forensic Director's responsibilities shall be to:
 - i. Ensure that there is a model of forensic practices that is consistent throughout the hospital and community forensic service system;
 - ii. Develop and implement program standards, policies and procedures for forensic programs, as well as monitoring procedures for community forensic programs;
 - iii. Oversee the interface between forensic programs and the mental health-criminal justice system;
 - iv. Develop and implement a system for monitoring community and hospital forensic programs to ensure quality;
 - v. Develop and implement a system for monitoring community forensic programs to ensure continuity of care between HSH and the community system of care and treatment;
 - vi. Function as liaison with HSH Forensic Coordinator;
 - vii. Track all patients with forensic status;
 - viii. Supervise forensic examiners; and
 - ix. Function as liaison with Attorney General, Courts, Public Defenders and Department of Public Safety, and, as such, shall address the following priority issues:
 - 1. Model court orders;

2. Location, level and timeliness of forensic services, including:
 - a. Fitness and responsibility evaluations;
 - b. Conditional releases; and
 - c. Jail/prison transfer;
3. Involuntary treatment and medication orders;
4. Development of proposed legislation that separates fitness evaluations from responsibility evaluations;
5. Establishment of a mental health court; and
6. Evaluation and recommendations for changes regarding the jail diversion, forensic ACT team, and the Community Crisis Teams.

- x. In conjunction with the HSH Forensic Coordinator, work collaboratively with the attorney assigned full-time to the hospital to maximize the timeliness and effectiveness of the discharge of forensic patients from HSH.

(Timeframe: one year.)

- xii. Ensure that Hawaii State Hospital and the University of Hawaii continue their collaborative efforts and that the University of Hawaii, John A. Burns School of Medicine, reliably and consistently supplies licensed, qualified psychiatrists to Hawaii State Hospital.

(Timeframe 6 months.)

2. HSH shall:

- i. Establish an appropriate and empowered executive leadership team with responsibility for all hospital operations and staff. All hospital departments and disciplines shall have clear lines of accountability and report to one of these positions. The team shall only consist of: **(Timeframe: one month.)**
 - a. Administrator;
 - b. Medical Director;
 - c. Associate Administrator (Director of Operations & Finance);
 - d. Director of Nursing; and
 - e. at the discretion of the administrator;
 - i. Attorney assigned full-time to the hospital; and
 - ii. Associate Administrator for Quality.
- ii. Have an executive team that shall develop and implement a structure to ensure the delivery of hospital services to the patient population at the hospital. **(Timeframe: three months.)**
 - a. The following shall report to the Administrator:
 - i. Patient rights advocate (abuse and neglect);
 - ii. Medical Director (whom shall be the Director of Psychiatry);
 - iii. Associate Administrators; and
 - iv. Attorney assigned full-time to the hospital.

- b. The following shall report to the Medical Director:
 - i. Director of Psychiatry (whom shall be the Medical Director);
 - ii. Chief of Psychiatry (an optional position that emphasizes direct patient care and staff training)
 - iii. Director of Nursing;
 - iv. Director of Medical Services:
 - a. Laboratory;
 - b. Dental;
 - c. Pharmacy;
 - d. Specialty consultations/clinics; and
 - e. Infection Control;
 - v. Director of Psychology:
 - a. Positive Behavioral supports;
 - b. Neuropsychology; and
 - c. Developmental Disabilities Coordinator;
 - vi. Director of Social Work;
 - vii. Director of Psychosocial Rehabilitation:
 - a. RT;
 - b. OT;
 - c. PT;
 - d. MI/SA; and
 - e. Chaplaincy;
 - viii. Coordinator of Forensic Services.
- c. The following shall report to the Director of Nursing:
 - i. Admissions Coordinator (whom shall be in a newly defined role)
 - ii. Nurse Managers (who shall have 24-hour responsibility);
 - iii. Off-shift Supervisors; and
 - iv. Clinical Nurse Specialists.
- d. The following shall report to the Associate Administrator (Director of Operations & Finance):
 - i. Housekeeping;
 - ii. Dietary;
 - iii. Security;
 - iv. Human Resources;
 - v. Maintenance;
 - vi. Finance/Business Office; and
 - vii. Management Information Systems.
- e. The following shall report to the Associate Administrator for Quality:
 - i. Quality Management;
 - ii. Utilization Review;
 - iii. Staff Development;
 - iv. Risk Management; and
 - v. Medical Records.
- iii. **Unit Management (Timeframe: three months.)**
 - a. The nurse manager shall be the unit manager and shall have the authority to:

- i. Identify problems and collaboratively develop and implement solutions;
 - ii. Organize and manage resources to facilitate all care and treatment functions for their assigned patient population; and
 - iii. Communicate directly with discipline chiefs and department heads for the benefit of patient care and treatment;
 - b. All units shall operate as components of an integrated, consistent hospital. All units shall function according to HSH established philosophy, policy and procedure. Any unique unit missions and functions shall be defined in HSH policies. **(Timeframe: one year.)**
- iv. **Treatment Teams (Timeframe: one year.)**
 - a. The psychiatrist shall be in charge of the team and has the ultimate authority for all clinical decisions. (Please reference Section II.5 of this plan for a more extensive discussion of treatment teams.)
- v. **Directors (Clinical) (Timeframe: three months.)**
 - a. Each director position shall be a full-time position.
 - b. Each director shall be involved in direct patient care and treatment for a certain percentage of his/her time. The purpose of this is for each Director to model and practice what they are teaching to and supervising with his/her staff.
 - c. Direct patient care and treatment hours is the time spent providing individual or group face-to-face interventions (including assessments) with patients and the time spent writing individual progress notes that reflect those interventions. Direct care and treatment hours are an unduplicated count of staff hours not patient hours. Treatment planning hours are not included in the total.
 - d. Each director position shall include no less than 10% (4 hours per week) of direct patient care and treatment.
 - e. The director positions in total, on average, shall include no less than 30% (12 hours per week) of direct patient care and treatment hours.
 - f. The direct patient care and treatment distribution by director shall be based on the patients' needs. One possible suggested distribution is:

i. Medical Director	10%
ii. Director of Nursing	10%
iii. Director of PSR	20%
iv. Director of Social Work	20%
v. Director of Medical Services	40%
vi. Director of Psychology	40%
vii. Director of OT	50%
viii. Director of RT	50%
- vi. **Service Coordinators (Timeframe: one year.)**
 - a. The Forensic and Substance Abuse Coordinators shall be full-time. The Developmental Disabilities Coordinator shall be part-time as long as patients with DD do not number over ten (10). These positions shall include no less than 20% (8 hours per week) for the Forensic Coordinator, 50% (20 hours per

week) for the Substance Abuse Coordinator, and 50% (direct-care hours dependent on hours of position) for the Development Disabilities Coordinator.

i. Forensic Coordinator

1. This is a full-time position that reports to the Medical Director.
2. Functions include:
 - a. Develop and implement, in conjunction with the AMHD Forensic Director, a comprehensive risk assessment instrument to be used with each patient upon admission to HSH;
 - b. Develop and implement treatment programs specific to the needs of forensic patients, e.g., restoration of competency;
 - c. Develop and implement assessments that determine when patients are ready to return to court;
 - d. Oversee the quality and timeliness of reports to the court concerning competency to stand trial, NGRI status, and conditional release;
 - e. Consult to treatment teams specifically for forensic discharges, including conducting assessments of current risk status;
 - f. Function as liaison to AMHD Forensic Director;
 - g. Evaluate and refine the services; and
 - h. Serve as a resource for the treatment teams and the community system, including courts and corrections.

ii. Mental Illness/Substance Abuse Coordinator

1. This is a full-time position that reports to the Director of Psychosocial Rehabilitation.
2. Functions include:
 - a. Develop and implement treatment programs using the integrated mental health substance abuse model;
 - b. Provide direct services;
 - c. Function as liaison to community substance abuse providers, health providers, self-help groups, and mental health providers;
 - d. Evaluate and refine the services;
 - e. Develop and implement a process to identify patients who have substance abuse and addiction problems, identify their needs for services and ensure the provision of those services; and
 - f. Serve as a resource for the treatment teams.

iii. Mental Illness/Developmental Disability Coordinator

1. This is a part-time position that reports to the Director of Psychology.
2. This person shall meet the qualifications for a Qualified Mental Retardation Professional.
3. Functions include:

- a. Develop and implement individualized treatment and habilitation programs;
 - b. Provide direct services;
 - c. Function as liaison to the Developmental Disabilities Division, liaison to community developmental disability providers, and advocate to ensure that discharges occur as soon as in-patient level of care is no longer necessary;
 - d. Evaluate and refine the services;
 - e. Develop and implement a process to identify patients who have developmental disabilities, identify their needs for habilitation services and ensure the provision of those services; and
 - f. Serve as a resource for treatment teams.
- vii. The hospital executive committee shall ensure that performance improvement findings are used at all levels of hospital leadership, including individual treatment teams, coordinators, and directors. Each identified leadership position and team shall integrate performance improvement findings with hospital operations for day-to-day decision making as well as annual strategic planning operations. This shall be accomplished by each director and coordinator having responsibility for integrating performance improvement findings within his/her own sphere of influence. (Timeframe: one year.)

II. CONTINUITY OF CARE AND TREATMENT

Related Court Orders

- a.) **Admission Assessment Process**
 - i. *The State shall provide sufficient treatment and/or training programs to patients at HSH and residents of CARS. This shall include the following actions, effective with the filing of this Settlement Agreement:*

Providing each patient with a physical and mental status examination and review of behavioural status at the time of admission to HSH; and ensuring that each resident admitted to CARS has already had a complete diagnostic and assessment evaluation and a determination has been made that a residential placement is appropriate; (1991 Settlement Agreement, section II.E.1.a.)

Providing each patient/resident with an initial psychiatric, nursing and psycho-social assessment and initial treatment plan within sixty (60) hours of the time of admission to HSH or CARS; (1991 Settlement Agreement, section II.E.1.b.)
- b.) **Treatment Planning Process**

- i. *Within 120 days after filing this Settlement Agreement, the State shall develop and implement a system of records for each patient or CARS resident, developed and maintained under the supervision of a competent individual whose responsibility will be to ensure patient/resident records are properly maintained. Each patient/resident's records shall be readily available to all staff. Information shall be incorporated in the patient/resident's record in sufficient detail to enable those persons involved in the patient/resident's treatment and training programs to provide effective and continuing implementation of such treatment and/or training. All entries shall be legible, dated, titled by discipline, and have the signature and identification of the individual making the entry. (1991 Settlement Agreement, section II.I.)*
- ii. *The State shall provide sufficient treatment and/or training programs to patients at HSH and residents of CARS. This shall include the following actions, effective with the filing of this Settlement Agreement:*

Providing each patient with a physical and mental status examination and review of behavioural status at the time of admission to HSH; and ensuring that each resident admitted to CARS has already had a complete diagnostic and assessment evaluation and a determination has been made that a residential placement is appropriate; (1991 Settlement Agreement, section II.E.1.a.)

Providing each patient/resident with an initial psychiatric, nursing and psycho-social assessment and initial treatment plan within sixty (60) hours of the time of admission to HSH or CARS; (1991 Settlement Agreement, section II.E.1.b.)
- iii. *Within fourteen (14) days of admission to HSH or CARS, developing for each patient/resident, an individualized treatment and/or training program which is consistent with professional judgment, and which is developed by an interdisciplinary team of professional staff, including psychiatrists, medical physicians, nurses, psychologists, social workers, physical therapists, occupational therapists, and direct care workers, as appropriate. Each treatment plan shall contain at least the following elements:*

Statements describing the nature of the specific problems and needs of the patient/residents;

A statement that HSH or CARS is able to meet the individual needs for each specific patient/resident for psychiatric and medical care;

A description of clear, objective, and measurable intermediate and long range goals and objectives for each patient/resident, including time-frames for the achievement of each;

A delineation of the specific treatment and or training programs to be afforded to each patient/resident, including a schedule(s) for the conduct of such programs;

A statement and rationale for the planned course of treatment, including treatment and/or training programs, designed to achieve the specified short and long term goals specified in the plan;

Designation of specific staff responsible for the implementation of each component of the treatment plan and/or training programs;

Criteria for release and/or discharge, and

Alternate, professionally appropriate plans if the patient/resident refuses treatment and/or training programs. (1991 Settlement Agreement, section II.E.1.c. (i)-(viii).)

- iv. *The treatment plans and/or training programs shall be reviewed and revised by qualified professionals when necessary due to behavioral episodes, use of seclusion or bodily restraints, use of seclusion or bodily restraints, use of PRN medications, or occurrence of an injury. (1991 Settlement Agreement, section II.E.1.d.)*

- v. *The treatment and/or training programs shall be consistently implemented by:*

Adequately trained staff who are qualified to implement such programs; and

The safe and timely transport of patients/residents to such treatment programs, whether on or off grounds. (1991 Settlement Agreement, section II.E.1.e.)

- vi. *In addition to the above actions:*

Within 180 days of the filing of this Settlement Agreement, the State shall evaluate or re-evaluate each current patient at HSH and resident at CARS to ensure a current, accurate diagnosis and to identify the individual needs of each patient/resident. (1991 Settlement Agreement, section II.E.2.a.)

Within ninety (90) days of the filing of this Settlement Agreement, the State shall develop policies and procedures to provide for the evaluation of the effectiveness of patient/resident treatment team on at least a quarterly basis or more frequently as specified in section E., paragraph 1., d., above, so that appropriate review and revision of such programs are made. (1991 Settlement Agreement, section II.E.2.b.)

- vii. *The State shall ensure that as of the time of the filing of this Settlement Agreement all HSH patients and CARS residents with a dual diagnosis receive sufficient treatment and training necessary to avoid unreasonable risks to their personal safety and undue bodily harm including:*

Ensuring that qualified professionals evaluate all patients with a dual diagnosis, develop an accurate and complete diagnosis, and determine each patient/resident's individual need for treatment and training; (1991 Settlement Agreement, section II.H.1.)

Ensuring that qualified professionals develop and consistently implement treatment and training programs for such persons; and (1991 Settlement Agreement, section II.H.2.)

Evaluating the use of psychotropic medications administered to patients/residents with a dual diagnosis consistent with the requirements of Part II, section E, paragraph 3., a. through j., above. (1991 Settlement Agreement, section II.H.3.)

- viii. *Defendants shall ensure that patients are not denied the opportunity to participate in planned treatment programs due to inadequate staff to transport patients to programs or to conduct the programs. (1995 Remedial Plan, V.B.)*

- ix. *By no later than September 1, 1996, Defendants shall ensure that every HSH patient has an adequate and appropriate individualized interdisciplinary treatment plan in accordance with the provisions in Part II.E of the Settlement Agreement. (1996 Order, section II.B.1.)*

- x. *By no later than September 1, 1996, Defendants shall ensure that there is adequate quality review by appropriate clinicians of the appropriateness and adequacy of treatment plans. Defendants shall also ensure that a member of each interdisciplinary treatment team is responsible and accountable for ensuring that the treatment plan is implemented and changes in the plan are made when warranted, particularly following behavioral episodes, use of restraint or seclusion,*

use of PRN medications, significant incidents, or injury. (1996 Order, section II.B.2.)

- xi. By no later than August 1, 1996, Defendants shall identify all HSH patients who are in need of special attention due to frequent episodes of restraint or seclusion, use of restraints or seclusion as part of a behavioral management plan, or frequent injuries or incidents. Defendants shall use outside resources, where necessary and appropriate, to address and ameliorate each area in which the patient poses special needs. (1996 Order, section II.B.3.)*
- xii. By no later than September 1, 1996, Defendants shall increase the frequency of Grand Rounds at HSH to a minimum of two per month. By no later than February 1, 1997, patients identified as in need of special attention in paragraph II.B.3. above shall be the subject of a case presentation at the Grand Rounds. Patients identified as in need of special attention after August 1, 1996 shall be the subject of a case presentation at the Grand Rounds within two months of being identified. (1996 Order, section II.B.4.)*
- xiii. Defendants shall develop and implement for every patient at HSH and CARS an adequate and appropriate individualized interdisciplinary treatment plan and adequate psychosocial rehabilitation program sufficient to meet the needs of each patient and to achieve full compliance with Part II (E)(1) of the Settlement Agreement, Sections V(A-B) of the January 19, 1995 Stipulation and Order to Remedy Defendants' Contempt and accompanying Remedial Plan, and Section II (B) of the June 28, 1996 Stipulation and Order. (1998 Order, section I.)*

c.) Provision of Treatment

- i. By no later than July 17, 1995, Defendants shall develop and implement a plan for the provision of adequate psychosocial rehabilitation services at HSH. (1995 Remedial Plan, section V.A.)*
- ii. By no later than August 1, 1996, Defendants shall identify all HSH patients who are in need of special attention due to frequent episodes of restraint or seclusion, use of restraints or seclusion as part of a behavioral management plan, or frequent injuries or incidents. Defendants shall use outside resources, where necessary and appropriate, to address and ameliorate each area in which the patient poses special needs. (1996 Order, section II.B.3.)*
- iii. By no later than September 1, 1996, Defendants shall increase the frequency of Grand Rounds at HSH to a minimum of two per month.*

By no later than February 1, 1997, patients identified as in need of special attention in paragraph II.B.3. above shall be the subject of a case presentation at the Grand Rounds. Patients identified as in need of special attention after August 1, 1996 shall be the subject of a case presentation at the Grand Rounds within two months of being identified. (1996 Order, section II.B.4.)

- iv. By no later than October 1, 1996, Defendants shall hire a Director of Psychosocial Rehabilitation at HSH. The Director shall ensure that there is a comprehensive psychosocial rehabilitation program at HSH that is coordinated between the various disciplines. (1996 Order, section II.B.5.)*
- v. By no later than December 1, 1996, Defendants shall ensure that every HSH patient has the opportunity to participate in an appropriate, comprehensive, individualized psychosocial rehabilitation program. HSH shall take adequate steps to encourage patient participation. (1996 Order, section II.B.6.)*
- vi. By no later than December 1, 1996, Defendants shall ensure that patients with a dual diagnosis (as defined in Part I of the Settlement Agreement) receive adequate psychosocial rehabilitation and treatment. (1996 Order, section II.B.7.)*
- vii. Defendants shall develop and implement for every patient at HSH and CARS an adequate and appropriate individualized interdisciplinary treatment plan and adequate psychosocial rehabilitation program sufficient to meet the needs of each patient and to achieve full compliance with Part II (E)(1) of the Settlement Agreement, Sections V(A-B) of the January 19, 1995 Stipulation and Order to Remedy Defendants' Contempt and accompanying Remedial Plan, and Section II (B) of the June 28, 1996 Stipulation and Order. (1998 Order, section I.)*

d.) Discharge and Re-Entry into the Community

- i. Within the time frames set forth below, the State shall ensure that HSH and CARS have a sufficient number of appropriately qualified psychiatrists, psychologists, social workers, rehabilitation services staff, nurses and direct care staff to assure attainment and consistent maintenance of at least the staff to patient/resident ratios and other requirements as delineated below. The State shall seek university affiliation, to the extent possible, for the professional staff at HSH and CARS. At the State's discretion, the ratios may be attained by hiring additional staff or by appropriately reducing the patient/resident population of HSH and CARS. HSH and CARS shall maintain a daily*

patient/resident population consistent with this goal and the census shall only be increased if staff is available as set forth in the ratios as delineated below. The State agrees that if it decides to reduce the population of HSH or CARS through the transfer or diversion of a substantial number of patients/residents to alternate programs, the determination as to which patients/residents shall be transferred or diverted elsewhere shall be made by professional staff qualified to make such decisions. If such transfers or diversions are to be made, the State agrees to file a plan for such transfers or diversions no later than sixty (60) days prior to implementing the transfers or diversions. The United States shall have thirty (30) days in which to comment on the plan. If the United States does not oppose the plan, the plan shall become part of this Settlement Agreement and shall be fully enforceable. If the United States opposes the plan, or any part thereof, and the parties are unable to resolve their differences after good faith negotiations, the adequacy of the plan shall be determined by the Court. (1991 Settlement Agreement, section II.C.1.)

- ii. Defendants shall exercise the option already provided in the Settlement Agreement and make every effort to reduce the patient census to a level that enables HSH to meet the staffing requirements of Part II, ¶ C of the Settlement Agreement. Any patients discharged shall be provided adequate transition plans and follow-up services. Defendants shall ensure the appropriateness of such placements. Residential community programs shall be created and funded for all HSH patients whose only barrier to discharge is the absence of an appropriate community placement. (1995 Remedial Plan, section III.)*
- iii. In order to ensure full and faithful compliance with their responsibilities under section III of the January 19, 1995, Stipulation and Sections 3 and 4 of the Remedial Plan, Defendants shall develop and implement a comprehensive plan to meet the requirement set forth below and in the January 19, 1995, Stipulation and Remedial Plan:*
 - a. Select or develop an appropriate tool to assess every HSH patient to identify those patients who can be discharged from HSH and served appropriately in an alternative, less restrictive setting; (1996 Order, section II.E.1.a.)*
 - b. Ensure that the assessment does not discriminate against any patients on the basis of type or severity of disability; (1996 Order, section II.E.1.b.)*
 - c. Use the tool to assess every HSH patient on a monthly basis; (1996 Order, section II.E.1.c.)*

the parties cannot agree on a mutually acceptable plan, they shall petition the court for a hearing to resolve the dispute. (1996 Order, section II.E.3.)

- vi. *Defendants shall develop and implement an individualized plan for discharge and community placement for each HSH patient who has been assessed as appropriate for discharge that identifies all residential and other community supports needed to meet the needs of the patient. Defendants shall achieve full compliance with Part II(E)(1)(c)(vii) of the Settlement Agreement, Section III of the January 19, 1995 Stipulation and Order to Remedy Defendants' Contempt and accompanying Remedial Plan, and Section II(E) of the June 28, 1996 Stipulation and Order. (1998 Order, section 4.)*

Necessary Tasks

Under this plan, the State shall provide and maintain a system of care and treatment for persons who have been or currently are patients/residents of HSH or who have been or will be transferred or diverted from HSH, and shall ensure that all such persons are provided care and treatment at the levels of service appropriate to meet their needs.

To further meet the requirements of the Court's Stipulations and Orders:

1. To assist the State in complying with the Stipulations relating to the provision of adequate community services for persons who have been or currently are patients/residents of HSH or who have been or will be transferred or diverted from HSH, the State shall: **(Timeframe: two years.)**
 - i. Implement a comprehensive system of community services;
 - ii. Ensure that the implementation of these services is faithful to the models as described in current research and literature from which they are drawn;
 - iii. Develop, promulgate and implement clear and definitive admission criteria for each level of care and treatment based on national standards;
 - iv. Develop, promulgate and implement clear and definitive utilization review criteria for each level of care and treatment based on national standards; and
 - v. Develop, promulgate and implement clear and definitive discharge processes for each level of care and treatment.
2. The State shall ensure that clinical programs and services maintain fidelity to accepted standards of practice and are consistent throughout the hospital and community system. **(Timeframe: two years.)**
3. This system of care and treatment shall include appropriate in-patient and community services and supports. Based on the individualized treatment plans, such services may include:
 - i. Housing Services: 24-Hour Residential (Intensive Staff/Supervision);
 - ii. Housing Services: Forensic Residential;

- iii. Housing Services: 8- to 16-Hour Residential (Moderate Staff/Supervision);
- iv. Housing Services: Specialized Residential;
- v. Semi-Independent Living;
- vi. Supported Housing;
- vii. Crisis/Emergency Telephone/Walk-in/Urgent Care;
- viii. Crisis Mobile Outreach;
- ix. Crisis Residential;
- x. Respite Care;
- xi. In-patient General (Community Hospitals);
- xii. In-patient Specialty/State;
- xiii. Acute Detoxification-Residential;
- xiv. Evaluations/Assessments;
- xv. Court-Ordered Evaluation;
- xvi. Somatic Treatment;
- xvii. Individual Therapy;
- xviii. Group Therapy;
- xix. Family Therapy;
- xx. Partial Hospitalization;
- xxi. Out-patient Detoxification;
- xxii. Day Treatment for Persons with a Dual Diagnosis;
- xxiii. Intensive Out-patient Substance Abuse Treatment (for persons with Dual Diagnosis);
- xxiv. Consumer Operated Services/Community Support Clubhouse/Transitional Employment Program;
- xxv. Psychosocial Rehabilitation;
- xxvi. Supported Employment;
- xxvii. Supported and Other Education;
- xxviii. Vocational Assessment/Counseling;
- xxix. Consumer Advocacy;
- xxx. Homeless Outreach;
- xxxi. Jail Diversion Services;
- xxxii. Representative Payee Services;
- xxxiii. Assertive Community Treatment Teams (ACT);
- xxxiv. Active Case Management Services;
- xxxv. Supportive Case Management/Case Coordination;
- xxxvi. Therapeutic Support and Supervision;
- xxxvii. Client Transportation;
- xxxviii. Family Psychoeducation; and
- xxxix. Legal Advocacy.

4. Admission Process (Timeframe: one year.)

- i. The AMHD Medical Director shall have the responsibility for the utilization management process and shall supervise its implementation and operation.
- ii. Upon determination by the AMHD Medical Director or designee that HSH is the designated site of service for a person, the AMHD Medical Director shall

- communicate in written form to the Medical Director of HSH or designee the admission paperwork for review.
- iii. The HSH Medical Director or designee shall accept the patient or indicate further information or evaluation is needed to effectuate admission.
 - iv. The State shall ensure that the patient is transported and admitted to the hospital.
 - v. Each patient admitted to HSH shall have a professionally accepted admission assessment, risk assessment, and an initial plan of care and treatment within the timeframes required in the Stipulations. Such a process shall be defined in the HSH policies and procedures.
 - vi. Each patient shall be admitted to the HSH Admission Unit unless the Medical Director determines that there is a more appropriate place for admission within the hospital.

5. Treatment Teams (Timeframe: one year.)

- i. The psychiatrist shall be in charge of the team and has the ultimate authority for all clinical decisions. The psychiatrist:
 - a. Shall ensure that the treatment plan is the result of the treatment planning process, and that the plan fully directs and integrates all care and treatment;
 - b. Shall ensure that all the disciplines are involved in the treatment planning process as directed by each patient's needs;
 - c. May delegate some responsibilities to other team members.
- ii. The patient shall be present at his/her treatment team meetings.
- iii. Family/significant others shall be invited and encouraged to participate with the consent of the patient.
- iv. Where the patient has a community case manager, the community case manager shall participate through attendance at the meeting, video teleconferencing, telephone conference, fax or other written communication.
- v. The treatment team shall, at a minimum, consist of the following professional members:
 - a. Psychiatry;
 - b. Social Work;
 - c. Nursing
 - 1. Registered Nurse, and
Psychiatric Technician;
 - d. Psychology;
 - e. Rehabilitation representative; and
 - f. Community Case Manager.
- vi. The treatment team shall have consistent and enduring staff assignments.
- vii. Treatment team meetings shall occur on a scheduled basis, be coordinated hospital-wide and structured to maximize patient and community involvement.
- viii. AMHD shall ensure involvement by the community provider through creating contracts that include financial incentives for and disincentives for not participating in treatment planning meetings.
- ix. HSH shall implement treatment teams consistent with the above, including the development and implementation of training and processes essential to successful

team functioning. Training shall include such topics as leadership, communication, active listening and other skills essential to positive patient outcomes such as assessment, intervention and the development of community services.

6. Treatment Planning Process (Timeframe: one year.)

- i. Within seven (7) days of admission to HSH, HSH shall develop, for each patient, an individualized treatment and/or training program which is consistent with professional judgment, and which is developed by an interdisciplinary team of professional staff, including psychiatrists, medical physicians, nurses, psychologists, social workers, physical therapists, occupational therapists, direct care workers, and others as appropriate. Each treatment plan shall contain at least the following elements:
 - a. A case formulation that results from the multidisciplinary assessments for use in developing the interdisciplinary treatment plan;
 - b. A narrative describing the resolution of diagnostic discrepancies;
 - c. Statements describing the nature of the specific problems and needs of the patient; a list of the patient's problems prioritized based on the goal of discharge; and a rationale for not including certain problems in the treatment plan;
 - d. An approach to treatment that takes into account the cultural differences of the patients and the staff; the staff shall be competent in cultural diversity;
 - e. Clear, objective, behaviorally worded intermediate and / or long-term goals (the use of one or both is dependant on the patient's length of stay and complexity of the case). Goals shall have time frames for completion.
 - f. Each intermediate and / or long-term goal shall have, at a minimum, one short-term goal. "Short-term goals" are the steps taken to achieve the goal and shall be behaviorally worded, measurable, and have time frames for completion.
 - g. A delineation of the specific treatment interventions to be afforded to each patient, including a schedule(s) for the conduct of such interventions;
 - h. A statement and rationale for each intervention designed to achieve the specified short-, intermediate- and long-term goals specified in the plan;
 - i. Designation of specific staff responsible for the implementation of each component of each patient's treatment plan;
 - j. Written criteria for discharge;
 - k. A transition plan that describes the incremental steps from inpatient to discharge status as determined by individual need, including:
 1. action steps by hospital personnel;
 2. action steps by community personnel; and
 3. timelines for completion.
 - l. A comprehensive discharge plan that specifies the patient's needs and how these needs will be met within the community, including:

1. The patient's personal recovery plan. (Please see Section II.8 of this plan for a more extensive discussion of discharge planning.);
 - m. Alternate, professionally appropriate plans if the patient refuses treatment and/or training programs.
 - ii. Treatment plans shall be implemented and maintained by qualified professional staff.
 - iii. Progress notes that shall be documented in the medical record and that shall specifically describe the patient's progress toward the achievement of his/her goals and objectives as identified in the treatment plan;
 - iv. Treatment plans shall be reviewed every 30 days, or more frequently as clinically indicated, and shall be revised according to the changes in the patient's status, and implemented according to the revisions.
 - v. Treatment plans shall be evaluated and revised, when necessary, in response to behavioral episodes, use of seclusion or bodily restraints, use of PRN medication, or occurrence of an injury. The treatment teams shall be encouraged to request consultation on any recurrent or persistent medical, psychological, or behavioral problems.
 - vi. Behavioral Plans (positive behavioral supports)
 - a. When a behavioral plan is indicated by patient need, it shall be integrated into the comprehensive treatment plan.
7. Provision of Treatment (Timeframe: two years,* except for ii.g and ii.h the timeframes for which are "immediate.")
- i. The State shall provide a comprehensive program of treatment for each patient that shall be defined by his/her individualized treatment plan.
 - ii. Psychosocial rehabilitation is a philosophy and an approach that is integral to the care and treatment of persons with serious and persistent mental illness. Psychosocial rehabilitation services may include, but are not limited to OT, PT, DBT, reinforcement programs, MI/SA, RT, and peer support groups. These services are rehabilitative in nature and designed to facilitate recovery from serious and persistent mental illness.
 - a. HSH shall provide no less than 20 hours of psychosocial rehabilitative services per week for each patient as directed by the patient's individualized treatment plan.
 - b. These services shall be provided off the unit, i.e., independent of where the patient sleeps, to the fullest extent possible.
 - c. The program shall run seven days per week.
 - d. Staff shall ensure that the unit milieu reinforces the learning and skills that have occurred in each individual's formal program.
 - e. Staff shall ensure that all patients go to the site(s) where psychosocial rehabilitation is provided according to their schedules.
 - f. Patients shall be at the site of their assigned psychosocial rehabilitation programs whether they participate or not. Staff shall be educated to understand that the right to refuse treatment shall be respected but that patients do not have the power to decide where they are in the hospital at any given moment.

- g. Staff shall educate patients concerning their rights and responsibilities. (***Timeframe: immediate.**)
- h. Staff shall not use privileges in a way that restricts patients' participation in treatment. (***Timeframe: immediate.**)
- iii. HSH shall ensure that: (**Timeframe: one year.**)
 - a. Behavioral interventions are based on a positive behavioral supports model consistent with the psychosocial rehabilitation approach.
 - b. A behavioral intervention committee, whose primary function is the review and oversight of all behavior support plans, meets as often as necessary.
 - c. Membership of the behavioral intervention committee consists of the Psychology Director (chair) and members from psychiatry, psychology, nursing, psychosocial rehabilitation, chaplaincy, and patient advocacy. However, the author of the behavior support plan being reviewed shall not be a voting member of the committee.
- 8. Discharge and Re-entry into the Community (**Timeframe: one year.**)
 - i. Effective discharges occur when both hospital and community providers believe that patients can succeed in the community. This belief shall be furthered by hospital staff having full knowledge of the depth and breadth of community services.
 - ii. HSH shall ensure:
 - a. Discharge assessment and planning shall begin upon admission and continue throughout hospitalization. Clinical and legal discharge criteria shall be established in the patient's treatment plan and the patient's progress toward discharge shall be reviewed every 30 days by the treatment team. All interventions described in the treatment plan shall be directed toward improving the patient's level of functioning, and successful community reintegration. The patient's progress toward meeting discharge criteria shall be documented by treatment team members in progress notes, treatment plan reviews and updates, and specific treatment group or individual therapy notes.
 - b. Patient preferences shall be an integral part of discharge planning. Discharge assessments regarding the patient's housing, financial, social, vocational, educational, family/social support, mental health management assistance, special individual and medical and legal assistance requirements, as appropriate, shall form the basis of discharge/community reintegration planning.
 - c. HSH treatment teams shall coordinate discharge planning with appropriate community service agencies to promote continuity of care and treatment in the patient's transition to the community. Family members and guardians, as appropriate, shall be included in discharge planning. HSH shall monitor the patient's placement for 30 days, record information about adjustment in the patient's record, and conduct an intense review of cases of patients who return within 30 days of

- discharge. This review shall include development of recommendations for individual treatment plan revisions and for systems change.
- d. Patients who are civilly committed or who are voluntary shall be discharged when clinical discharge criteria are met.
 - e. Patients committed by the criminal courts shall be discharged when clinical discharge criteria are met and when legal encumbrances are removed.
- iii. HSH shall ensure the completion of a written discharge summary that includes:
 - a. Reason for hospitalization;
 - b. Course of treatment;
 - c. Groups attended;
 - d. Discharge medications and any associated issues;
 - e. Medical disorders and treatment;
 - f. Laboratory and diagnostic results;
 - g. Treatment team recommendations for continued care and treatment, including effective interventions for current risks;
 - h. Current legal status and any pending forensic issues;
 - i. Identification of discharge placement with names and telephone numbers;
 - j. Status of individual benefits;
 - k. Community contacts including names, phone numbers, and follow-up appointments for mental health, medical, and transportation issues;
 - l. Emergency phone number information; and
 - m. The patient's personal recovery plan.
 - iv. HSH shall ensure that:
 - a. Readmissions to HSH shall follow the same admission process as was established for initial admissions.
 - b. For those who are discharged with conditional release, HSH must maintain an accessible capacity to provide services to such patients who are at risk of losing their CR status or who have had their CR status revoked. This can prevent permanent revocation of the conditional release. If appropriate, other community alternatives may be used.
 - c. When patients require hospital level of care and treatment within two weeks of discharge from HSH, it is preferable that this care and treatment be provided at HSH. In the event that a patient discharged from Hawaii State Hospital is thereafter admitted to another hospital psychiatric unit within thirty (30) days of the HSH discharge, and the State receives notice of the admission, AMHD shall review the discharge and the circumstances leading to the subsequent inpatient admission.
 - v. AMHD shall:
 - a. Monitor the continued adequacy and appropriateness of any residential and other community supports provided to discharged HSH patients to meet each discharged patient's needs in accordance with prior court orders, and coordinated with HSH as appropriate.

III. STAFFING

Related Court Orders

- i. *Immediately upon filing this Settlement Agreement, provide 1:1 staffing when ordered by a physician. (1991 Settlement Agreement, section II.A.2.)*
- ii. *Within the time frames set forth below, the State shall ensure that HSH and CARS have a sufficient number of appropriately qualified psychiatrists, psychologists, social workers, rehabilitation services staff, nurses and direct care staff to assure attainment and consistent maintenance of at least the staff to patient/resident ratios and other requirements as delineated below. The State shall seek university affiliation, to the extent possible, for the professional staff at HSH and CARS. At the State's discretion, the ratios may be attained by hiring additional staff or by appropriately reducing the patient/resident population of HSH and CARS. HSH and CARS shall maintain a daily patient/resident population consistent with this goal and the census shall only be increased if staff is available as set forth in the ratios as delineated below. The State agrees that if it decides to reduce the population of HSH or CARS through the transfer or diversion of a substantial number of patients/residents to alternate programs, the determination as to which patients/residents shall be transferred or diverted elsewhere shall be made by professional staff qualified to make such decisions. If such transfers or diversions are to be made, the State agrees to file a plan for such transfers or diversions no later than sixty (60) days prior to implementing the transfers or diversions. The United States shall have thirty (30) days in which to comment on the plan. If the United States does not oppose the plan, the plan shall become part of this Settlement Agreement and shall be fully enforceable. If the United States opposes the plan, or any part thereof, and the parties are unable to resolve their differences after good faith negotiations, the adequacy of the plan shall be determined by the Court. (1991 Settlement Agreement, section II.C.1.)*
- iii. **HSH Staffing**
Psychiatrists:
 - By no later than October 1, 1991:*
 - 1:15 for each acute ward;*
 - 1:20 for each forensic non-acute ward;*
 - 1:25 for each long term care ward*
 - By no later than July 1, 1992:*
 - 1:12 for each acute ward;*
 - 1:15 for each forensic non-acute ward;*
 - 1:20 for each long term care ward (1991 Settlement Agreement, section II.C.2.a.)*
- Psychologists:**
 - By no later than October 1, 1991: 1:25*

By no later than March 1, 1992: 1:20 (1991 Settlement Agreement, section II.C.2.b.)

Social Workers:

As of the time of filing this Settlement Agreement: 1:17

By no later than March 1, 1992: 1:15 (1991 Settlement Agreement, section II.C.2.c.)

Rehabilitation Services Staff (occupational and recreational therapy staff): As of the time of filing this Settlement Agreement: 1:9 (1991 Settlement Agreement, section II.C.2.d.)

Nursing Staff (registered nurses, licensed practical nurses and paramedical assistants): As of the time of filing this Settlement Agreement, the following shall apply:

Acute Wards: HSH shall consistently maintain at least an overall nursing staff: patient ratio of 1:3.5 present and on duty for the first shift; 1:3.5 present and on duty for the second shift; and 1:7 present and on duty for the third shift.

Long Term and Forensic Non-Acute Wards: HSH shall consistently maintain at least an overall nursing staff: patient ratio of 1:4 present and on duty for the first shift; 1:4 present and on duty for the second shift; and 1:8 present and on duty of the third shift. (1991 Settlement Agreement, section II.C.2.e.(i) and (ii))

The following conditions shall apply to the above nursing staff ratios for acute, and long term and forensic non-acute wards:

- a.*** There shall be at least one registered nurse on each ward on each shift;
- b.*** The nursing staff shall be deployed in such a manner so as to ensure that at least thirty percent (30%) of the staff on each ward on each shift shall be registered nurses. If there is no licensed practical nurse on duty on any ward for any shift, a registered nurse must therefore prepare and administer medications. The number of registered nurses present and on duty on the ward shall be adequate to ensure a sufficient number of registered nurse hours for supervision of other staff and patient treatment;
- c.*** Nursing staff shall be deployed in such a manner so as to ensure that there are at least 5.5 nursing care hours per patient day, as defined herein, on each acute ward and at least 5.0 nursing care hours per patient day, as defined herein, on each long term and non-acute forensic ward;
- d.*** The total number of nursing staff present and on duty each shift shall be increased, when necessary, to ensure adequate supervision, health, safety, and treatment of each HSH patient; and
- e.*** Any 1:1 and special assignment staff are in addition to the nursing ratios set forth in sections e. (I) and e. (ii), above, and are not counted in the ratios. (1991 Settlement Agreement, section II.C.2.e.(iii))

- iv. *Within 120 days after filing this Settlement Agreement, HSH shall employ and retain at least one psychiatrist who will have primary responsibility for supervising, monitoring, and coordinating all clinical care and treatment activities and operations at HSH and who possesses at least the following minimum qualifications:*
- Demonstrated skills and competence in both clinical and psychiatric practice and supervision of other psychiatrists and physicians in an institutional setting; and*
- Certification by the American Board of Psychiatry and Neurology. (1991 Settlement Agreement, section II.C.2.f.)*
- v. *Within ninety (90) days after filing this Settlement Agreement, HSH shall employ and retain at least one psychologist possessing a Ph.D. in the field of psychology, who has been licensed or certified by the State, has at least three years of supervisory experience in an institutional setting, and who will have primary responsibility for supervising, monitoring, and coordinating all psychological care activities and operations at HSH. (1991 Settlement Agreement, section II.C.2.g.)*
- vi. *Within ninety (90) days after filing this Settlement Agreement, HSH shall employ and thereafter retain a Master's level prepared psychiatric nurse, or the equivalent thereof, as the Director of Nursing "DON". This person shall have responsibility for supervising, monitoring and coordinating all nursing care personnel, including registered nurses, licensed practical nurses, and paramedical assistants, and the quality of all nursing services and activities at HSH. The DON shall coordinate all nursing in-service activities and ensure that nursing staff attend all in-service training necessary to attain and maintain current generally accepted standards of professional nursing care. (1991 Settlement Agreement, section II.C.2.h.)*
- vii. *HSH shall further ensure that at least one physician continues to be on-grounds at the HSH campus at all times and is readily available and accessible for patient care. (1991 Settlement Agreement, section II.C.2.i.)*
- viii. *The State shall ensure that all staff who provide services to HSH patients and CARS residents are adequately trained to fully implement the provisions of this Settlement Agreement by the required dates and are thereafter provided with in-service training on a regular basis. The training shall include, but not be limited to: behavior management techniques; implementation of individualized treatment and training programs; emergency medical response; use of restraint and seclusion; including recordkeeping for such procedures; and preparation and administration of medication, including recordkeeping for such administration. (1991 Settlement Agreement, section II.K.1.)*
- ix. *Staff evaluation and job performance at HSH and the Children's Residential Services shall include, but not be limited to:*

Regular job performance appraisal relating directly to the employee's job description;

Corrective plans of action for unsatisfactory job performance; and

Completion of appropriate staff development and training. (1991 Settlement Agreement, section II.K.2.a.-c.)

- x. **By no later than June 10, 1995, hire and deploy a sufficient number of permanent staff to fill vacancies in the occupational therapy staff to ensure compliance with Settlement Agreement ratios for rehabilitation staff. (1995 Remedial Plan, section I.A.4.)**
- xi. **Defendants shall ensure that sufficient numbers of permanent nursing staff are deployed at HSH such that the use of temporary staff and staff overtime are kept to an absolute minimum. In order to accomplish this and to meet the staffing requirements of the Settlement Agreement, Defendants shall take the following actions within the timeframes set forth below:**
 - By no later than February 3, 1995, ensure that on a day-to-day, shift-to-shift basis, the staffing on each unit is adjusted to ensure adequate staffing. (1995 Remedial Plan, section I.B.1.)**
- xii. **As vacancies occur in the nursing staff, the Defendants shall fill such vacancies with permanent staff within one month of the vacancy. (1995 Remedial Plan, section I.B.5.)**
- xiii. **By no later than 30 days from entry of this Stipulation, Defendants shall have sufficient nursing staff (including registered nurses, licensed practical nurses, and paramedical assistants ["PMAs"]) actually present and on duty to maintain at least 5.5 nursing care hours per patient day and to maintain at least an overall nursing staff: patient ratio on each unit of HSH:**
 - 1:3.5 first shift**
 - 1:3.5 second shift**
 - 1:7 third shift. (1996 Order, section II.A.1.a.)**
- xiv. **In accordance with the terms of the prior Court Orders these ratios shall be met without resort to excessive use of overtime. (1996 Order, section II.A.1.b.)**
- xv. **In accordance with the terms of the prior Court Orders these ratios shall be met without excessive use of agency personnel. 1996 Order, section II.A.1.c.)**

- xvi. *By no later than November 1, 1996, Defendants shall ensure that on a day-to-day, shift-to-shift basis, the staffing on each unit at HSH is adjusted so that there is adequate staffing to meet the acuity needs of patients and to provide adequate and appropriate supervision and safety, and also nursing responsibilities related to treatment and psychosocial rehabilitation programs. (1996 Order section II.A.2.)*
- xvii. *By no later than August 1, 1996, Defendants shall create a pool of a minimum of twenty nursing staff positions that are available for assignment to any HSH unit to meet the acuity and treatment needs of patients. (1996 Order, section II.A.3.)*
- xviii. *By no later than October 1, 1996, Defendants shall ensure that there is adequate coverage for HSH staff who are on extended leave. (1996 Order, section II.A.4.)*
- xix. *By no later than September 1, 1996, Defendants shall adopt and implement a policy that no HSH employee works voluntary overtime on consecutive days and that limits the number of voluntary overtime shifts for each employee to a maximum of three shifts per week. (1996 Order, section II.A.5.)*
- xx. *By no later than June 15, 1996, Defendants shall ensure that HSH employees use sick leave only in accordance with State policy. (1996 Order, section II.A.6.)*
- xxi. *By no later than October 1, 1996, Defendants shall hire a Director of Psychosocial Rehabilitation at HSH. The Director shall ensure that there is a comprehensive psychosocial rehabilitation program at HSH that is coordinated between the various disciplines. (1996 Order, section II.B.5.)*
- xxii. *Defendants shall retain sufficient staff at HSH to meet all staffing ratios and requirements set forth in Part II (C) of the Settlement Agreement, Section I of the January 19, 1995 Stipulation and Order to Remedy Defendants' Contempt and accompanying Remedial Plan, and Section II(A) of the June 28, 1996 Stipulation and Order, except as provided in Paragraph I.A.2 of HSH's Plan of Correction (Attachment A). (1998 Order, section 3.)*

Necessary Tasks

Qualified, professional staff shall be provided in sufficient numbers to ensure patients receive quality care, treatment, appropriate supervision and are safe. HSH shall employ, maintain, and/or contract with an appropriate number of staff, including medical physicians, psychiatrists, psychologists, registered nurses, licensed practical nurses, psychiatric technicians, paramedical assistants, occupational therapists, recreational therapists, industrial therapists, dietitians, pharmacists, physical therapists, and others as needed to implement this plan. The Administrator shall have the ability to hire and deploy qualified staff, and terminate staff as necessary to ensure adequate supervision and consistency in the implementation of this plan. Existing system positions may be used for the purposes of meeting the requirements included in this plan for the establishment of new or revised positions. Staffing patterns shall accommodate patients' need

for consistency in care and treatment, with minimal reliance on temporary staff and with sufficient numbers of permanent staff to minimize reliance on overtime.

To further meet the requirements of the Court's Stipulations and Orders, HSH shall:

1. Staff all units according to the current acute staffing Stipulations because all units are currently overcrowded, accept admissions, and house patients with different acuity and security levels. (Timeframe: three months.)
2. Deploy all nursing and program staff such that they shall be engaged in psychosocial rehabilitation as defined in this plan. (Timeframe: one year.)
3. Once the censuses on the units meet the units' designed capacities and there is a differentiation of patients based on security and acuity levels, re-deploy staff according to staffing patterns that reflect the reconfiguration of the units as per the Stipulations. (Timeframe: one year.)
4. Refer to the Settlement Agreement for specific Stipulations and Orders in this area.

IV. PROTECTION FROM HARM

Related Court Orders

a.) Seclusion and Restraint

- i. *Immediately upon filing this Settlement Agreement, ensure that all patients/residents who are placed in physical or mechanical restraint or seclusion are monitored adequately by appropriate medical personnel and that no patient/resident is restrained or secluded for a period greater than that necessary for the patient/resident to no longer exhibit behaviors demonstrating an imminent threat of serious harm to self or others. (1991 Settlement Agreement, section II.A.1.)*
- ii. *Effective with the filing of this Settlement Agreement, the State shall ensure that bodily restraint, seclusion, and time-out are administered at HSH and CARS only pursuant to the judgment of a qualified professional and are never used for the convenience of staff, for punishment, or in lieu of professionally developed treatment and/or training programs including;*

Using bodily restraint, seclusion, and time-out, except in emergency circumstance, only in conjunction with a written treatment and/or training program. (1991 Settlement Agreement, section II.F.1.)

Ensuring that any treatment and/or training program utilizing bodily restraint, seclusion, or time-out shall be reviewed by an appropriate

committee comprised of facility professionals as well as by an external entity. (1991 Settlement Agreement, section II.F.2.)

Ensuring that any treatment plan utilizing seclusion, bodily restraint, or time-out specifies:

The behavior to be eliminated and the specific behavior, clearly and objectively defined, which triggers use of the method;

The method to be used;

The duration for use of the method, when employed;

The person responsible for the program;

The data to be collected to assess progress toward the objectives; and

Justification that other less restrictive behavior modification techniques have been systematically tried and have been demonstrated to be ineffective. (1991 Settlement Agreement, section II.F.3.a.-f.)

Reviewing the use of seclusion, time out, and bodily restraint for each patient/resident on at least a monthly basis and only continuing such use if reliable data supports the necessity of the continued use of seclusion, time-out, or bodily restraint. (1991 Settlement Agreement, section II.F.4.)

Developing appropriate policies and procedures, consistent with professional standards and judgment, to provide for the emergency use of bodily restraint, seclusion or time-out. A mechanism must also be developed to ensure that HSH and CARS staff adhere to the emergency restraint policy and procedures. (1991 Settlement Agreement, section II.F.5.)

iii. *Upon entry of this Order, Defendants shall ensure the following outcomes and by no later than February 6, 1995, Defendants shall fully implement policies, procedures, and practices to ensure that:*

1. Restraint and seclusion are only used when ordered by a physician who makes a determination that restraint or seclusion is clinically necessary. (1995 Remedial Plan, section VI.A.)

2. *Patients are not subjected to seclusion or restraint as punishment, for the convenience of staff, or as a result of inadequate staffing. (1995 Remedial Plan, section VI.B.)*
 3. *Patients who are in seclusion or restraint are monitored adequately by appropriate medical personnel, including registered nurses. Where a registered nurse delegates this responsibility, such nurse is responsible to ensure that the personnel to whom this responsibility is delegated is adequately carrying out the responsibility. (Remedial Plan, section VI.C.)*
 4. *Patients are treated humanely while in restraint and seclusion, with due care given to their personal needs for adequate circulation, food and liquids, adequate hygiene, and use of a bathroom. (1995 Remedial Plan, section VI.D.)*
 5. *Adequate quality assurance procedures to monitor and ensure ¶¶ (A) – (D), above are developed and implemented. (1995 Remedial Plan, section VI.E.)*
- iv. *HSH shall continue to review regularly all incidents of restraint, seclusion, and physical intervention to determine whether staff actions led to injury or abuse and, if so, to determine and implement corrective actions. (Investigation Order, section 9.)*
 - v. *HSH shall continue to provide training in, and clinical staff supervision of, crisis intervention for all residential unit staff. Training shall be provided during orientation of new staff, during inservice staff training sessions, and as part of incident specific case reviews by unit interdisciplinary and paramedical staff. (Investigation Order, section 10.)*
 - vi. *By October 10, 1995, HSH shall reaffirm with staff the hospital's priority for low use of restraint and seclusion as patient management interventions. (Investigation Order, section 11.)*
 - vii. *By no later than August 1, 1996, Defendants shall achieve full compliance with Part II.F of the Settlement Agreement and section VI of the January 19, 1995 Stipulation and Remedial Plan. (1996 Order, section II.C.1.)*
 - viii. *By no later than August 1, 1996, Defendants shall ensure that there is adequate clinical oversight and review of the use of restraint and seclusion. (1996 Order, section II.C.2.)*

- ix. *By no later than August 1, 1996, Defendants shall ensure that staff do not use excessive or inappropriate force in managing patient behavior and shall review all incidents of restraint, seclusion, and physical intervention to determine whether staff actions led to injury or abuse and, if so, to determine and implement corrective action. (1996 Order, section II.C.3.)*
- x. *Defendants shall ensure that restraint and seclusion are used at HSH and CARS only pursuant to the judgment of a qualified professional and are not used in lieu of professionally developed treatment or training programs, for the convenience of staff or as punishment, and shall achieve full compliance with Part II(F) of the Settlement Agreement, Section VI of the January 19, 1995 Stipulation Order to Remedy Defendants' Contempt and accompanying Remedial Plan, and Section II(C) of the June 28, 1996 Stipulation and Order. (1998 Order, section 2.)*
- xi. *The emergency use of bodily restraint, seclusion, or time-out three times in one month shall trigger a review by the patient/resident's interdisciplinary treatment team of the patient/resident's psychiatric condition to determine the need for a new, different, or otherwise modified treatment and/or training program. (1991 Settlement Agreement, section II.F.6.)*

b.) Abuse and Neglect and Other Serious Incidents

- i. *Immediately upon entry of this Order, Defendants shall take all necessary actions to protect HSH patients from physical or emotional abuse and neglect. (1995 Remedial Plan, section VIII.A.)*
- ii. *By no later than February 15, 1995, Defendants shall revise their policies, procedures, and practices for reporting and investigating all allegations of abuse and/or neglect and taking appropriate action when abuse and/or neglect is substantiated. At a minimum, the revised policies, procedures, and practices shall ensure the following outcomes: (1) timely reporting of all abuse and neglect incidents; (2) immediate notification of the HSH Superintendent and Clinical Director or their designees of the alleged abuse or neglect; (3) the Superintendent shall make a determination of any immediate actions necessary to protect the patient and direct that such actions be taken; (4) immediate reporting of all allegations of abuse to the Protection and Advocacy Agency of Hawaii; (5) establishment of a group of qualified investigators independent of HSH; (6) prompt and thorough investigation of the alleged abuse by these independent investigators; (7) preparation of a thorough investigatory report setting forth complete findings of fact and the basis of the findings; (8) review of the findings by a Patient*

Protection Committee comprised of HSH executive staff members, the Director of Health or designee, and community representatives. Such committee shall also review any other available reports or investigatory findings of any external agency, including the Protection and Advocacy Agency of Hawaii; (9) prompt disciplinary action against staff confirmed to have committed abuse; and (10) establishment of adequate tracking systems for injuries and allegations of abuse or neglect. (1995 Remedial Plan, section VIII.B.)

- iii. The Court enjoins any current, former, or future HSH or state employee from retaliating in any way against any person who has reported or reports in the future any deficient conditions or allegations of abuse at HSH to any HSH, state, or federal official or representative of the Protection and Advocacy Agency of Hawaii. Immediately upon entry of this Order, the Defendants shall post a notice in each building of HSH alerting staff that the Court has enjoined any current, former, or future HSH or State employee from retaliating in any way against any person who has reported or reports in the future any deficient conditions or allegations of abuse at HSH to any HSH, state, or federal official or representative of the Protection and Advocacy Agency of Hawaii. (1995 Remedial Plan, section XI.)*
- iv. By no later than October 10, 1995, HSH shall implement the use of a standardized medical/clinical assessment form designed to provide all patients involved in abuse and neglect allegations, physical assaults, and other serious incidents with a timely, uniform clinical and medical assessment by appropriate professional staff. (Investigation Order, section 1.)*
- v. By October 10, 1995, HSH shall implement the use of a formal intake report to be filled out by the Risk Manager, and/or by the nursing supervisor during off hours, to record compliance with the specific notification and response requirements of ¶ 8 of the January 19, 1995, Remedial Plan and the requirements identified herein. (Investigation Order, section 3.)*
- vi. For allegations made beginning on October 10, 1995, the comprehensive investigations of all allegations of abuse and neglect conducted by the independent investigators, subject to the provisions of ¶ 5 below, shall be tailored to the nature of the allegations. At that time the State shall discontinue any pre-screening of abuse or neglect allegations to determine whether an independent investigation should be conducted. (Investigation Order, section 4.)*
- vii. By October 10, 1995, HSH shall establish and implement, for appropriate patients, a clinical case review protocol to evaluate and*

appropriately respond to allegations of patients who repeatedly file or articulate allegations of abuse or neglect that are clearly secondary to their psychiatric delusions. The protocol shall include the following elements:

- 1. No more than five patients at HSH shall be subject to the protocol at any one time.*
- 2. All allegations made by these patients shall be documented and forwarded to the Patient Protection Committee.*
- 3. All such allegations not referred to an independent investigation shall be referred to the unit chief and the patient's treatment team for review and recommendations.*
- 4. HSH's patients' rights advocate and the Patient Protection Committee shall periodically review the files of these patients.*
- 5. The HSH Administrator, the Patient Protection Committee, the Department of Health, and the Department of Justice may require an independent investigation of any allegation involving the patients identified under the protocol. (Investigation Order, section. a.-e.)*

viii. The State reaffirms its commitment under the Stipulation and the Remedial Plan entered on January 19, 1995, that:

- 1. Substantiated abuse or neglect shall result in prompt and appropriate disciplinary action, and*
- 2. Adequate supervision of direct care staff shall be provided, including implementation of HSH's policies and procedures for delineating clear lines of clinical authority and responsibility.*

In addition, the HSH associate administrator for personnel affairs shall be responsible for providing consultation to direct care supervisory staff sufficient to ensure that such supervisory staff understand the appropriate/necessary steps to take in disciplinary subordinate staff under their supervision. (Investigation Order, section 12.a.-b.)

ix. Defendants shall take all necessary steps to ensure that HSH patients are adequately protected from harm and risks to their personal safety. At a minimum, Defendants agree by no later than June 1, 1997, to be in full compliance with sections IV and VIII of the January 19, 1995 Stipulation and corresponding requirements in the Remedial Plan and

the November 15, 1995 Stipulation, with progress to be shown toward that result in each of the quarterly reports of Dr. Nancy Ray as required in this Stipulation, beginning with the December 15, 1996 report. In addition, the Defendants shall take the following steps:

- 1. By no later than July 1, 1996, institute an adequate system to ensure appropriate and timely administrative and clinical review and follow-up of all significant incidents to address individual patient and systemic issues raised by the incident; (1996 Order, section II.D.1.a.)*
- 2. By no later than August 1, 1996, begin conducting comprehensive studies of recurring significant, systemic issues negatively impacting patient care at HSH and, within 30 days after the date of the administrator's approval of each report, develop and implement adequate action to address the issues; (1996 Order, section II.D.1.b.)*
- 3. By no later than August 1, 1996, ensure that there is adequate reporting and accountability of all incidents; (1996 Order, section II.D.1.c.)*
- 4. By no later than September 1, 1996, ensure that there is adequate evaluation and review of all professional and supervisory staff actions in serious incidents; and (1996 Order, section II.D.1.d.)*
- 5. By no later than September 1, 1996, increase the number of members of the Patient Protection Committee (PPC) to include two additional community members so that a majority of the PPC members (four out of a total of seven) are community members. The PPC may proceed to meet, deliberate, and make decisions if at least three community members and two HSH/DOH representatives are in attendance. (1996 Order, section II.D.1.e.)*

c.) Investigation Issues: Timeliness, Action Taken

- i. Immediately upon entry of this Order, the Protection and Advocacy Agency of Hawaii shall have full and complete access, in accordance with its statutory authority under 42 U.S.C. §10805, to patients of HSH and copies of all relevant documents needed to conduct adequate investigations of complaints by HSH patients. (1995 Remedial Plan, section VIII.C.)*

- ii. *By no later than November 1, 1995, the Department of Health or HSH shall provide the independent investigators with clerical support to assist them in performing their investigative duties at HSH outlined herein and ¶ 8 of the January 19, 1995, Remedial Plan. (Investigation Order, section 2.)*
- iii. *By October 15, 1995, the independent investigators shall include in their investigatory reports, where applicable, findings and recommendations regarding staff and hospital practices which may have contributed to the incident they are investigating. The HSH Administrator, management staff, unit staff, and Patient Protection Committee may recommend specific staff and hospital practices, including but not limited to patient supervision, staffing, compliance with HSH policies, and appropriate crisis intervention, which the investigators should consider in conducting investigations. For purposes of this paragraph, the term "staff and hospital practices" shall not include practices in areas of clinical practice, i.e., those for which medical, psychiatric, or other professional training is required. (Investigation Order, section 6.)*
- iv. *HSH shall continue to track the implementation of recommendations for corrective and preventive actions emanating from special incident reviews and independent investigations. This process shall include, within the limits of confidentiality requirements, monthly reports on the status of the implementation of corrective and preventive actions for the hospital's management team and all unit chiefs and head nurses. Such monthly reports shall be provided to the United States Department of Justice as part of HSH's monthly status reports. (Investigation Order, section 7.)*
- v. *Beginning November 1, 1995, Dr. Nancy Ray shall review investigation reports on all allegations made between October 10, 1995 through April 30, 1996, for the purpose of evaluating the adequacy and quality of the reports and making suggestions and recommendations to HSH on reducing or preventing the causes of harm that may be identified in the reports. Dr. Ray shall provide HSH with a monthly written report of her comments and recommendation, beginning on December 1, 1995. Such monthly reports shall be provided to the United States Department of Justice as part of HSH's monthly status reports. (Investigation Order, section 8.)*
- vi. *The State reaffirms its commitment under the Stipulation and the Remedial Plan entered on January 19, 1995, that:*
 - 1. *Substantiated abuse or neglect shall result in prompt and appropriate disciplinary action, and*

2. *Adequate supervision of direct care staff shall be provided, including implementation of HSH's policies and procedures for delineating clear lines of clinical authority and responsibility.*

In addition, the HSH associate administrator for personnel affairs shall be responsible for providing consultation to direct care supervisory staff sufficient to ensure that such supervisory staff understand the appropriate/necessary steps to take in disciplinary subordinate staff under their supervision. (Investigation Order, section 12.a.-b.)

- vii. *Defendants shall take all necessary steps to ensure that HSH patients are adequately protected from harm and risks to their personal safety. At a minimum, Defendants agree by no later than June 1, 1997, to be in full compliance with sections IV and VIII of the January 19, 1995 Stipulation and corresponding requirements in the Remedial Plan and the November 15, 1995 Stipulation, with progress to be shown toward that result in each of the quarterly reports of Dr. Nancy Ray as required in this Stipulation, beginning with the December 15, 1996 report. In addition, the Defendants shall take the following steps:*
 1. *By no later than July 1, 1996, institute an adequate system to ensure appropriate and timely administrative and clinical review and follow-up of all significant incidents to address individual patient and systemic issues raised by the incident; (1996 Order, section II.D.1.a.)*
 2. *By no later than August 1, 1996, begin conducting comprehensive studies of recurring significant, systemic issues negatively impacting patient care at HSH and, within 30 days after the date of the administrator's approval of each report, develop and implement adequate action to address the issues; (1996 Order, section II.D.1.b.)*
 3. *By no later than August 1, 1996, ensure that there is adequate reporting and accountability of all incidents; (1996 Order, section II.D.1.c.)*
 4. *By no later than September 1, 1996, ensure that there is adequate evaluation and review of all professional and supervisory staff actions in serious incidents; and (1996 Order, section II.D.1.d.)*
 5. *By no later than September 1, 1996, increase the number of members of the Patient Protection Committee (PPC) to include two additional community members so that a majority*

of the PPC members (four out of a total of seven) are community members. The PPC may proceed to meet, deliberate, and make decisions if at least three community members and two HSH/DOH representatives are in attendance. (1996 Order, section II.D.1.e.)

d.) Patient and Staff Injuries

- i. Upon entry of this Order, Defendants shall immediately provide adequate supervision of patients to protect them from harm. In addition, Defendants shall ensure appropriate clinical and administrative review and follow-up action in any instances of assaults on patients or staff. (1995 Remedial Plan, section IV.)*

Necessary Tasks

To further meet the requirements of the Court's Stipulations and Orders:

HSH shall ensure that at all times each patient is treated with dignity and respect and provided adequate supervision to protect the patient from physical and psychological harm. Such protection from harm shall address all aspects of hospital life, including:

1. **Seclusion and Restraint (Timeframe: immediate.)**
 - a. HSH shall actively seek to reduce the use of seclusion and restraint to an absolute minimum.
 - b. Each patient's de-escalation preferences shall be assessed and used as appropriate as alternatives to seclusion and restraints.
 - c. Medical and trauma histories and status shall be used to guide the decisions concerning the use of seclusion and restraint.
 - d. Seclusion and restraint shall only be used in emergencies when there is an imminent risk of a patient harming himself or herself, staff, or others, and non-physical interventions would not be effective.
 - e. Seclusion and restraint shall not be used as part of any treatment plan, including behavior support plans, or in lieu of active treatment.
 - f. Seclusion and restraint shall never be used as the result of inadequate staffing, for the convenience of staff, or for punishment.
 - g. Patients in seclusion and restraint shall be evaluated by a physician, assessed and continuously monitored to ensure patient safety during this process, and regularly re-evaluated as shall be specified in hospital, medical and nursing policies and procedures. Continuous monitoring shall be defined as one-to-one observation. Video monitoring shall not substitute for one-to-one observation.

- h. Humane measures including the routine offering of food, fluids, and use of the bathroom facilities will be documented and regularly re-evaluated and shall be specified in hospital and nursing policies and procedures.
- i. No patient shall be restrained or secluded for a period of time or by methods greater than that necessary for the patient to no longer exhibit behaviors demonstrating an imminent threat of serious harm to self or others.
- j. The patient, and family as appropriate, and staff shall participate in a de-briefing about any seclusion or restraint episode.
- k. HSH policies and procedures regarding the authorization, monitoring and documentation of seclusion and restraint shall be followed.
- l. Seclusion and restraints shall not be interventions that are used together.
- m. Suicidal patients shall never be placed in seclusion.
- n. Unless clinically justified by a physician, self-injurious patients shall never be secluded.
- o. Persons with mental retardation shall never be placed in seclusion.
- p. Restraints used solely for security during the transportation of forensic patients shall not be considered restraint.

2. Neglect, Abuse and Other Serious Allegations and Incidents (**Timeframe: one year except where specified.**)

- a. HSH shall foster a culture of safety that is committed to zero tolerance for any abuse and neglect of patients by staff.
(**Timeframe: Immediate**)
- b. HSH shall contract with an independent, qualified investigator(s) with a background in mental health and skills in investigation techniques who shall:
 - i. Prioritize the allegations;
 - ii. Conduct an investigation within seven (7) days of receipt of an allegation;
 - iii. Produce a report including his/her findings and recommendations within 10 days of receipt of an allegation and submit that report to the Patient Protection Committee, and the HSH administrator; and
 - iv. Develop a methodology to identify those patients who make multiple allegations that appear to be secondary to their psychiatric diagnosis and make a referral to their treatment teams for this to be identified as a problem in their treatment plans.
 - v. Investigate serious allegations involving patient-to-patient incidents in the same manner in which staff neglect and abuse are investigated.
- c. HSH shall take and document appropriate disciplinary and/or programmatic action to resolve each allegation(s).
- d. The HSH Medical Director shall exercise his/her authority in instances of patient-to-patient abuse to protect patients.
- e. The HSH Administrator shall have and exercise his/her authority to remove on an interim or permanent basis, and for as long as necessary, any employee to ensure protection of patients.
 - i. If current collective bargaining or civil service requirements preclude the HSH Administrator from having this authority, the State and employee

unions shall develop a mutually agreeable mechanism to effectuate this requirement.

(Timeframe: Immediate)

3. Patient and Staff Injuries (Timeframe: eighteen months,* except for 3.g for which the timeframe is three months.)

- a. HSH shall foster a culture of safety that is committed to zero tolerance for any assaults or other workplace injuries.
- b. HSH shall carry out this commitment by completion of a risk assessment for assaultive behavior of each patient, incorporation of the assessment data into the treatment planning process, a strong therapeutic program, and adequate staffing to meet acuity levels.
- c. Patients and staff shall be oriented to their rights to be in and responsibilities to maintain a violence-free environment.
- d. HSH shall establish a process for ensuring that those hired for staff positions do not pose a threat to patient safety.
- e. HSH shall train employees in conflict resolution and de-escalation of aggression at the time of hire, annually, and if there is a problem.
- f. Should a patient or staff injury occur, HSH shall follow its policies and procedures for reporting, documenting, and resolving serious incidents and sentinel events.
- g. HSH shall aggregate and analyze patient and staff injury data quarterly, and develop and implement a plan of correction to prevent future patient and staff injuries. (*Timeframe: three months.)

V. MEDICATION PRACTICES

Related Court Orders

- i. *Immediately upon filing of this Settlement Agreement, ensure that all PRN orders for psychotropic medication:*
 - a. *Are limited to a maximum of 24 hours;*
 - b. *Are accompanied by the ordering physician's progress note documenting the justification and rationale for the PRN, and the effect of the PRN, if administered;*
 - c. *Describe in clear and objective terms, the specific indication and behaviors for which the PRN is to be administered;*
 - d. *Set forth the maximum number of doses to be administered within a 24 hour period; and*
 - e. *Are accompanied by a nursing progress note for each administration in which the nurse administering the PRN documents the reason for using the PRN, the lesser restrictive steps leading up to the administration of the PRN, and the effect of the PRN. (1991 Settlement Agreement, section II.A.3.)*
- ii. *Effective with filing of this Settlement Agreement, psychotropic medication shall be prescribed and administered to patients/residents only pursuant to the professional judgment of a qualified professional. Psychotropic medication shall not be used for*

the convenience of staff, to compensate for inadequate staff, as punishment, or in lieu of professionally developed treatment and/or training programs including:

Ensuring that psychotropic medication is used only as an integral part of a patient/resident's treatment and/or training program;

Ensuring that a specific and appropriate psychiatric diagnosis justifies the use of each drug; such justification shall be specified in the patients/resident's medical records;

Ensuring that antipsychotic medication is not solely used for the management of aggression in any patient/resident;

Prohibiting polypharmacy without specific justification and a second concurring opinion, both of which shall be recorded in the patient/resident's medical record prior to the implementation of the polypharmacy;

Prohibiting administering medication that exceeds maximal dosages (either as a standing order or standing order in combination with a PRN) without specific justification and a second concurring opinion, both of which shall be recorded in the patient/resident's record prior to implementation of the medications;

Ensuring that the minimum effective dose of medication is administered and documenting efforts to reduce patient/residents to the minimum effective dose;

Ensuring that the dose is appropriate to achieve therapeutic blood levels, when such blood levels are indicated;

Providing a written justification, in accordance with professional standards of care, of the simultaneous prescription of a long acting, injectable antipsychotic and oral supplementation of the same medication;

Ensuring that medications are administered as ordered by a physician;

Regularly monitoring each patient/resident receiving or being weaned from psychotropic medication for drug-induced side effects and taking appropriate action to reduce or eliminate such side effects; and

Developing and maintaining a data collection system sufficient to determine for each patient/resident receiving psychotropic medication whether HSH and CARS is adhering to the medication practices consistent with the parameters outlined in section E., paragraphs 3., a. through j., above. (1991 Settlement Agreement, section II.E.3.a.-k.)

- iii. *Evaluating the use of psychotropic medications administered to patients/residents with a dual diagnosis consistent with the requirements of Part II, section E, paragraph 3., a. through j., above. (1991 Settlement Agreement, section II.H.3.)*

Necessary Tasks

To further meet the requirements of the Court's Stipulations and Orders:

1. The psychiatrist shall: **(Timeframe: three months)**
 - a. Obtain written informed consent prior to the administration of non-emergency psychotropic medication, including anticonvulsants used to treat psychiatric symptoms. Informed consent forms shall be in language that the patient can understand.
 - b. Document the rationale in a progress note every time there is a change in dosage or type of psychotropic medication. This includes PRN and STAT medications.
 - c. Document the patient's response to medication in a progress note on a weekly basis.
 - d. Perform or review AIMS (or its equivalent) upon admission and every six months for patients who are on antipsychotic medications.
 - e. Justify the use of typical antipsychotic medications in any patient who has a positive finding on the AIMS exam.
 - f. Only initiate polypharmacy with specific justification after obtaining a second concurring opinion, both of which shall be recorded in the patient's medical record prior to the implementation of the polypharmacy. The one exception to this is for the patient who is admitted on polypharmacy for whom this review shall be done within three (3) working days.
2. The nurse shall: **(Timeframe: three months.)**
 - a. Ensure that the paraprofessional staff are aware of prescribed medication side effects, particularly when the paraprofessional is responsible for patient safety off the unit or on a community outing.
3. Refer to the Settlement Agreement for specific Stipulations and Orders in this area.

VI. MEDICAL PRACTICES

Related Orders

- i. *Within 120 days after filing this Settlement Agreement, the State shall develop and implement a system of records for each patient or CARS resident, developed and maintained under the supervision of a competent individual whose responsibility will be to ensure patient/resident records are properly maintained. Each patient/resident's records shall be readily available to all staff. Information shall be incorporated in the patient/resident's record in sufficient detail to enable those persons involved in the patient/resident's treatment and training programs to provide effective and continuing implementation of such treatment and/or training.*

All entries shall be legible, dated, titled by discipline, and have the signature and identification of the individual making the entry. (1991 Settlement Agreement, section II.I.)

- ii. *All HSH patients and CARS residents shall be afforded adequate medical care, including, within forty-five (45) days after filing this Settlement Agreement:*

Ensuring that all patients/residents have timely access to necessary diagnostic and treatment services, either on-grounds or at medical facilities which are off facility grounds, as appropriate. Facility administrators shall ensure that appropriate documentation of a patient/resident's physical illness accompanies the transfer of the patient/resident and that, upon return to the facility, the records of the course of treatment afforded the patient/resident returns to the facility with the patient/resident and is immediately made a part of the patient/resident's HSH or CARS medical record. (1991 Settlement Agreement, section II.D.1.)

Providing as appropriate, medical specialists to meet the specialized medical needs of HSH patients and CARS residents. (1991 Settlement Agreement, section II.D.2.)

Ensuring that adequate emergency medical care, appropriate to the medical needs of the population at HSH and CARS, is provided. (1991 Settlement Agreement, section II.D.3.)

Ensuring that each HSH patient has an appropriate and adequate nursing care plan in accordance with accepted professional standards of care. (1991 Settlement Agreement, section II.D.4.)

- iii. *The State shall provide sufficient treatment and/or training programs to patients at HSH and residents of CARS. This shall include the following actions, effective with the filing of this Settlement Agreement:*

Providing each patient with a physical and mental status examination and review of behavioral status at the time of admission to HSH; and ensuring that each resident admitted to CARS has already had a complete diagnostic and assessment evaluation and a determination has been made that a residential placement is appropriate... (1991 Settlement Agreement, section II.E.1.a.)

- iv. *HSH shall further ensure that at least one physician continues to be on-grounds at the HSH campus at all times and is readily available and accessible for patient care. (1991 Settlement Agreement, section II.C.2.i.)*

Necessary Tasks

To further meet the requirements of the Court's Stipulations and Orders:

1. HSH shall: (Timeframe: three months.)

- a. Assess the medical needs of all patients upon admission, reassess monthly throughout the course of care and treatment, and complete and record an annual physical exam.
 - b. Assess the dental needs of all patients upon admission, reassess as appropriate throughout the course of care and treatment, and complete and record an annual dental exam.
 - c. Ensure the completion, interpretation of and intervention for the results of all routine medical diagnostic tests and all medical diagnostic tests derivative of the findings of the history and physical examination.
 - d. Identify medical and dental care problems in the patient's treatment plan.
 - e. Develop, include and implement measurable goals and interventions in the treatment plan to meet the patient's medical and dental needs.
 - f. Develop nursing plans to address the physical / medical needs of patients as necessary, and integrate these plans into the comprehensive treatment plan.
 - g. Integrate medical and dental needs with the mental health needs of the patient.
 - h. Provide medical specialty consultations as needed upon referral by the medical physician.
 - i. Include medical and dental needs in the discharge plan.
2. The attending psychiatrist shall be responsible for the medical care and treatment of the patient. The medical physicians (or nurse practitioners/physicians assistants working under the supervision of the physician) shall serve as consultants to the attending psychiatrist. HSH medical physicians shall write orders pursuant to the medical and dental needs of the patients.
 3. Medical services shall be available and provided 24 hours per day, seven days per week.
 4. There shall be relationships with general medical hospitals and consultants to meet any and all medical and dental needs of patients that cannot be met at HSH.
 5. HSH shall ensure the presence of operational emergency medical equipment and staff trained in emergency procedures such that medical emergencies can either be managed at HSH or patients requiring such services are transported to local general hospitals.
 6. HSH shall complete adequate written referral information for any patient seen by a medical physician other than an HSH medical physician and shall ensure the receipt of appropriate documentation concerning the findings and interventions that derive from the medical consultation. The medical physician shall review the consultation and either follow the consultant's recommendations or document in the patient's medical record why the consultant's recommendations will not be followed.

VII. PERFORMANCE IMPROVEMENT

Related Court Orders

Necessary Tasks

HSH's performance improvement shall include the continuous study and adaptation of its functions and processes to increase the probability of achieving desired outcomes and to better meet the needs of patients. Measurement, assessment, and improvement shall be the three segments of the performance system upon which the HSH Performance Improvement Plan is based.

To further meet the requirements of the Court's Stipulations and Orders:

1. **Performance Improvement (Timeframe: one year.)**
 - a. The psychiatrist, who is the leader of the interdisciplinary treatment team and who is responsible and accountable for ensuring that the treatment plan is implemented, shall ensure that performance improvement findings are used to improve treatment planning.
 - b. The hospital shall, at a minimum, set up a system to track high risk, problem prone and high volume indicators and use the findings related to these indicators to improve care and treatment and to report actions taken to the executive committee.
 - c. The executive committee shall obtain and review the findings from performance improvement activities and shall utilize the findings to take action to improve patient care and treatment.
 - d. The hospital executive committee shall forward findings and actions to the hospital governing body for informational purposes.
2. **Staff Development (Timeframe: eighteen months.)**
 - a. The annual staff training and development plan shall derive from the care and treatment philosophy of the hospital, the population the hospital serves, the hospital annual strategic plan, performance improvement findings and this plan.
 - b. The annual staff training plan shall be reflected in:
 - i. new hire orientation;
 - ii. position specific orientation;
 - iii. position specific competencies; and
 - iv. annual performance appraisals.

VIII. MANAGEMENT INFORMATION SYSTEM

Necessary Tasks

HSH shall have an MIS system that facilitates and maintains the implementation of this plan. This system shall be congruent with systems developed by AMHD. (Timeframe: eighteen months.)

IX. PHYSICAL PLANT AND SAFETY

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- i. *Within sixty (60) days after filing of this Settlement Agreement, the State shall develop and implement an organizational structure at HSH that will establish clear lines of authority and responsibility among the various aspects of HSH operations and personnel. The organizational structure of HSH will be developed to ensure that HSH will meet the requirements of this Settlement Agreement. The organizational structure of HSH will also include adequate and sufficient quality assurance monitoring to ensure that the requirements of this Settlement Agreements are being met. (1991 Settlement Agreement, Part II.J.)*
- ii. *By no later than September 1, 1996, Defendants shall ensure that there is adequate quality review by appropriate clinicians of the appropriateness and adequacy of treatment plans. Defendants shall also ensure that a member of each interdisciplinary treatment team is responsible and accountable for ensuring that the treatment plan is implemented and changes in the plan are made when warranted, particularly following behavioral episodes, use of restraint or seclusion, use of PRN medications, significant incidents, or injury. (1996 Order, section II.B.2.)*
- iii. *[The State shall establish an adequate and comprehensive quality assurance system to monitor the continued adequacy and appropriateness of any residential and other community supports provided to discharged HSH patients to meet each discharged patient's needs; revise the residential and other community support services when necessary to meet the needs of the patient. (1996 Order, section II.E.1.h.)*
- iv. *The State shall ensure that all staff who provide services to HSH patients and CARS residents are adequately trained to fully implement the provisions of this Settlement Agreement by the required dates and are thereafter provided with in-service training on a regular basis. The training shall include, but not be limited to: behavior management techniques; implementation of individualized treatment and training programs; emergency medical response; use of restraint and seclusion; including recordkeeping for such procedures; and preparation and administration of medication, including recordkeeping for such administration. (1991 Settlement Agreement, section II.K.1.)*
- v. *Staff evaluation and job performance at HSH and the Children's Residential Services shall include, but not be limited to:*
- Regular job performance appraisal relating directly to the employee's job description;*
- Corrective plans of action for unsatisfactory job performance; and*
- Completion of appropriate staff development and training. (1991 Settlement Agreement, section II.K.2.a.-c.)*

Related Court Orders

- i. *Within fourteen (14) days after filing this Settlement Agreement, unless another deadline is specified below, take the following actions to eliminate building hazards and other conditions posing threats to the health and safety of HSH patients and residents of CARS:*
 - a. *House no more than one patient in HSH patient rooms housing newly civilly committed or newly voluntarily admitted patients, or housing any other HSH patient or CARS resident admission where the patient/resident's clinical condition requires a separate room;*
 - b. *Ensure that each unit at HSH and CARS does not exceed its patient/resident capacity;*
 - c. *Within sixty (60) days, replace all HSH bedroom doors in areas in which acute patients sleep with doors that open outward;*
 - d. *Eliminate all hazardous condition at HSH which pose undue suicide risks to patients, including non-breakaway shower and curtain rods; and within sixty (60) days, eliminate all hazardous conditions at CARS which pose undue suicide risks to residents, including non-breakaway shower curtain rods; and*
 - e. *Take all necessary steps to ensure that all seclusion rooms are free from hazards or conditions exposing patient/residents to harm. (1991 Settlement Agreement, section II.A.5.)*
- ii. *No later than forty-five (45) days after the filing of this Settlement Agreement, the State shall conduct a thorough fire-safety survey of all HSH and CARS areas currently housing patients or providing patient services, and all areas intended to house patients or provide patient services within twelve months of filing this Settlement Agreement, to identify those conditions which pose unreasonable fire safety risks to HSH patients and CARS residents. (1991 Settlement Agreement, section II.B.1.)*
- iii. *Within forty-five (45) days after the survey is completed, the State shall submit a plan to the United States detailing the measures it intends to take to correct the deficiencies identified through the survey. The United States shall have forty-five (45) days to review the plan and submit comments and to the State and the Court. The State shall have thirty (30) days from the date of the receipt of the comments and objections of the United States, to submit a response to the Court. The plan, once approved by the Court as submitted or modified based on the comments and/or objections of the parties, will be fully enforceable as part of this Settlement Agreement. (1991 Settlement Agreement, section II.B.2.)*
- iv. *Within 180 days after the filing of this Settlement Agreement, the State shall implement a preventive-maintenance fire and environmental safety program for all HSH and CARS areas currently housing patients/residents or providing patient*

services and all areas intended to house patients or provide patient/resident services. (1991 Settlement Agreement, section II.B.3.)

Necessary Tasks

Every patient, staff and visitor has the right to be in a safe and humane environment. Currently, safety issues impacting patients, staff and visitors have to do with overcrowding, the mix of patients with different clinical acuity levels, the mix of patients with different levels of risk with regard to their potential to harm themselves or others, and the fact that all units receive admissions.

To further meet the requirements of the Court's Stipulations and Orders, HSH shall:

1. Conduct a comprehensive acuity and risk assessment based on nationally accepted standards for all current patients and patients admitted in the future. **(Timeframe: six months.)**
2. Use the results of #1 to guide the placement of patients into the most appropriate unit. **(Timeframe: six months.)**
3. Conduct a review and make recommendations regarding the adequacy of the physical environment of the units and identify the most secure unit. Thereafter, develop and implement a plan to address the safety and security needs of the patients and the best use of the identified most secure unit. **(Timeframe: six months.)**
4. Maintain national accreditation or certification standards. **(Timeframe: ongoing.)**
5. Maintain state licensing. **(Timeframe: ongoing.)**
6. Develop and implement policies to ensure: **(Timeframe: three months.)**
 - a. Clinical staff have the skills to utilize the electronic security system; and
 - b. Non-clinical security personnel shall have defined roles regarding patient interactions and shall have completed training regarding such interactions to implement their job responsibilities.
7. Use the units to house patients considering: **(Timeframe: seven months.)**
 - a. Admission date;
 - b. Clinical acuteness (mental status exam);
 - c. Current level of risk of harm to others (based on the risk assessment required in Section II.4.v. of this plan);
 - d. Current capacity for self protection; and
 - e. Escape risk (based on the risk assessment required by Section II.4.v. of this plan).
8. HSH shall provide a level of security on each unit commensurate with the clinical profile of the patients on the units as described in #7 above. **(Timeframe: seven months.)**